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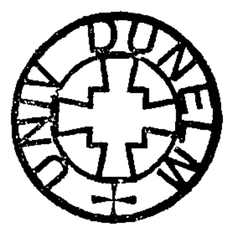
THE ATTEMPT TO CONTROL RITUALISM IN THE CHURCH OF ENGLAND THROUGH THE USE OF LEGISLATION AND THE COURTS, 1869 TO 1887, WITH SPECIAL REFERENCE TO THE SOCIETY OF THE HOLY CROSS.

by

Paul Peter Gerald Kitchenham.

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Thesis submitted for the Degree of Doctor of Philosophy,
University of Durham,
Department of Theology,
1997.



2 8 MAY 1997

ABSTRACT OF THESIS:

PAUL PETER GERALD KITCHENHAM

THE ATTEMPT TO CONTROL RITUALISM IN THE CHURCH OF ENGLAND THROUGH THE USE OF LEGISLATION AND THE COURTS, 1869 TO 1887, WITH SPECIAL REFERENCE TO THE SOCIETY OF THE HOLY CROSS.

Thesis submitted for the degree of Doctor of Philosophy, University of Durham, Department of Theology, 1997.

This thesis traces the attempts of the Low Church faction and the Establishment to restrain the extreme High Church party in the Church of England, in its use of Catholic ceremonial. The attempt was centred upon the Public Worship Regulation Act of 1874, the passing of which is examined in Chapter One. The remainder of the thesis traces the failure of the Act through prosecutions of various clergymen, some of whom were imprisoned for contempt of court. By the final chapter, a general recognition was apparent that Ritualism could not be controlled by the State but only by ecclesiastical authorities themselves. In making this chronological survey, I have sought to concentrate on the Society of the Holy Cross, an extreme Ritualist group, and its role in the controversies of the 1870s and 1880s, making use of its archives from the period.

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This thesis is 98,862 words in length, excluding the Bibliography

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✠

To the Memory of
John Purchas,
Alexander Heriot Mackonochie,
Charles Joseph Ridsdale,
Arthur Tooth,
Thomas Pelham Dale,
Richard William Enraght,
Thomas Thelluson Carter,
Sidney Faithhorn Green,
John Baghot de la Bere,
and
James Bell Cox.

✠

Requiescant in Pace.

INTRODUCTION

GOD the SPIRIT dwells within thee,

His Society Divine,

His the living word thou keepest,

His thy Apostolic line.

Ancient prayer and song liturgic,

Creeds that change not to the end,

As His gifts we have received them,

As His charge we will defend.

Hymns Ancient and Modern No 603.

Apologia

Whilst the features and course of the Oxford Movement of the 1830s and 40s have been delineated clearly by many scholars, the consequent rediscovery of Catholic ceremonial as an expression of High Church doctrine over the remaining decades of the nineteenth century has not been without its faithful historians. Nevertheless, one's first impression on turning to the Ritualist Revival is that it is destined always to remain in the shadow cast by Newman and his Oxford friends, and to a certain extent the scholarship on the subject reflects this. Newman's compulsively attractive prose was not the only reason why this should be so: the Oxford Movement fought for philosophical ideas, the Ritualists for the concrete expression of these ideas in gesture and vestment. The former are prone to being eulogised as brave thinkers whose weapon was the pen and the quickness of the mind which controlled it; the latter's arms were more prosaic - the pettiness of writs and appeals - and they could be seen as foolishly attached to the externals of worship. Such a set of contrasts is of course a great over-simplification of the reality of the situation, but may account for the greater attention given by historians to the earlier movement.

It is with the latter movement that this work is concerned. The period in question is covered by many books, both ancient and modern, and of varying degrees of scholarship. The

Victorian age has left a profusion of biographies, of men both great and small[1]. These are notable in general for their immense detail and a tendency to hagiography. The works which sprang euphorically from the celebrations of the Oxford Movement Centenary in the 1930s exhibit similar hagiography only usually without the precision of detail and Embry's volume on the Society of the Holy Cross, of which I make much use exemplifies the usefulness and weaknesses of books from this period. There are a number of modern biographical works which need to be mentioned. Michael Reynolds', Martyr of Ritualism, on the subject of Father Mackonochie; Lida Ellsworth's book on Father Lowder; Joyce Coombs' works on Father Tooth and Archdeacon Denison; more exotically, Father Brandreth's volume on Dr Lee of Lambeth - all are worth reading for the detail which they give for particular cases and specific personalities at the centre of Ritualism. Comparable are the excellent pamphlets produced by Nigel Yates on the Catholic Revival in Leeds, Portsmouth, Kent and so forth, and Father Cobb's pamphlet on Ritualism in Bristol. As well as these works dealing with specifics, there are various works which aim at giving a more general view of the period: among these, one must mention P.T.Marsh's book The Victorian Church in Decline, which although limited by its avowed aim of biographizing Archbishop Tait achieves so much more than a simple biography; James Bentley's Ritualism and Politics in Victorian Britain and William Fong's excellent thesis on the English Church Union are both useful too, as is G.I.T.Machin's narrative in Politics and the Churches in Great Britain 1869 to 1921. To greater or lesser extent all these use the near contemporary sources provided by Walter Walsh's scurrilous but accurate Secret History of the Oxford Movement and George Bayfield Roberts' History of the English Church Union, together with newspaper and law reports. There exist other less satisfactory presentations of the period, foremost among which comes Bernard Palmer's Reverend Rebels which simply summarises - inaccurately at times - the more complete narratives of others.

With such a reasonable array of historical research both specific and more general already dealing with the Ritualist Movement, the question arises as to the necessity for the present volume. With the occasional omission of relevant material and the occasional misdating of an

event, Fong, Marsh, Bentley and the others provide a useful and illuminating picture of the Movement, and this present study often finds itself following in their footsteps. The aim is to chronicle the failure of the attack on Ritualism through the courts and legislature, to show how public opinion, and the policies of the Ritualists developed over this period, and to attempt some suggestions as to why events took the course which they did. Much of these aims are indeed covered by existing scholarship, but one of my considerations in assembling this work has been to deal with specifics - which court made what pronouncement and when - this has at least the value of counteracting the false impression which the other works give as to chronology. To explain, by dealing with each of the cases brought against Ritualist clergymen separately, the existing authorities on the period convey the impression that first Tooth was prosecuted and imprisoned, then Dale, then Enraght, then Green and that after Green's release peace was restored to the Church of England. They may not mean to do so, but that way of treating the events surrounding these prosecutions inevitably leads to this idea. Bentley, Marsh and Machin anyway prefer to concentrate on the political background to the controversy rather than the details of the individual court cases. Hence, I have attempted to deal chronologically with the prosecutions of these (and other) clergymen, so that the complexity of the course of events can be realised by the reader. Often a decision in one case delayed the course of another or impinged in some other way. Equally, such a concentration on the imprisoned clergymen conveys an impression that no other clergy were involved and that the failure of the Public Worship Regulation Act was a fairly rapid affair. It is only by setting down a chronicle of events that such fallacies can be laid to rest, and the roles of such forgotten Ritualists as John Baghot de la Bere and Canon Carter of Clewer may be appreciated.

The use I have made of the archives of the Society of the Holy Cross may also, I hope, give this work some value. The Society serves to illuminate the mood among Ritualists during the first half of the period with which the thesis deals. These archives have not been used in such a project since Embry's thematic and entirely achronological work in the early 1930s, and fulfil the role played in Fong's thesis by the English Church Union records. The Society of the

Holy Cross forms a useful window through which to regard the events of the 1870s. Founded by Charles Lowder in the early days of Ritualism as a priestly society for mutual encouragement and support, the S.S.C.[2] grew rapidly and attracted most leading Ritualists: when Alexander Mackonochie joined in 1859 the membership amounted to 32, but by the time of the Public Worship Regulation Act, the total was more than ten times that number[3]. Despite the early adherence of Pusey, the Society was always at the extreme end of the Ritualist spectrum and thus formed a centre of resistance when the movement was attacked.

Equally, the Times newspaper provides another, contrasting view into the period. Bentley denigrates the notion that the Times "somehow represented the country as a whole"[4], but I make indeed no apology for my frequent use of this newspaper: its reporting of events was even and reliable, its constant coverage makes up for the patchiness of the Society of the Holy Cross records, and its opinions, properly interpreted, are always relevant. Part of the interest provided by the Times lies in the variety of the view points which it represented: the Leader could serve as Archbishop Tait's mouthpiece - or Prime Minister Disraeli's - sometimes it urged severe action to suppress Ritualism, yet at other times it seemed to regard the entire affair as a "storm in a tea-cup". Because of this varied outlook, it can be helpful as the voice of an independent and perceptive commentator.

Finally, I make no apology for the discursive nature of the text. Although I attempt to bring together the various threads of the tapestry to form adequate conclusions as to why events took the pattern which they did, I have also taken care on purpose to draw conclusions and comparisons in the course of the chronological survey which is the *raison d'etre* of this thesis. Such discussions appear as occasion demands them and, I hope, provide an appropriate commentary on the events as they unfold.

Nomenclature

This survey must begin with a consideration of the problem of nomenclature posed by

references to the Ritualist Movement or Party; why Ritualist, and was there anything in the Church of England at the time coherent enough to be referred to as a party or, more broadly a movement?

As with the Church of England in the 1990s, there was a wide spectrum of opinion within its boundaries in the 1870s. At one extreme of this, the S.S.C. and its sympathizers were very much of the opinion that the Church of England was a Catholic rather than a Protestant body, that state interference in ecclesiastical matters was wrong, and that ecclesiastical practice should in all respects be as closely conformed to the practice of the Roman Catholic Church (whether of early sixteenth century-English Roman Catholic practice or of the contemporary Church was at this point an open question). These views will be further discussed and analysed in the course of this study. The English Church Union[5], a broader grouping of laity as well as clergy was nearest to these views. As this study will show, the cohesiveness of the holders of these opinions grew under the threats posed by the Church Association and the Public Worship Regulation Act, so that the word "party" more accurately describes this group at the end of the decade than it does the situation in 1870.

A "party", according to the dictionary, denotes "a body of persons forming one side (as in a contest): a group united in opinion or action as distinguished from or opposed to a similar or larger group"[6]. For the Ritualists this was more of an ideal than a reality. For example, in 1876 the Priest in Absolution affair caused deep divisions even within the S.S.C. itself. In the light of this consideration, and despite the occasional use of the word "party" by Ritualist writers themselves, it would appear that the vaguer term "movement" ("a series of actions taken by a body of persons to achieve an objective: the body of persons taking part in such a series of actions"[7]) is preferable to define the phenomenon with which we are dealing, so long as it is recognised that the people involved in the movement did not necessarily have a clear and agreed objective explicitly in mind. "Movement" is also preferable to the more static "party" in that it conveys a little of the dynamism which was evident among those who held such ecclesiastical opinions: although faced with considerable opposition, the clergy of the

Movement were engaged in the development, extension, propagation and clarification of their views at this time. If it had been a static party, the onslaught against it would have been far more likely to crush it; as it was, the Church Association found itself up against a body of opinion more dynamic and alive than itself.

As to my use of the word "Ritualist", there are several other possible contenders. The preferred term among Ritualists themselves seems to have been "Catholic", as in Sabine Baring-Gould's essay on "The Origin of the Schools of Thought in the English Church"[8], which refers to the "Catholic party [....] in the Protestantized Church of England"[9]. This, and the less frequently occurring term "Anglo-Catholic" (which Baring-Gould nevertheless uses on the following page), is illustrative of the claim, derived from the Tractarian "branch theory", that the Church of England is a real part of the Universal Church. However, "Anglo-Catholic" is unsatisfactory for our purposes, since at this period it still carried its original meaning - as in "the Anglo-Catholic Church", meaning the entire Church of England viewed theoretically as part of the Universal Church, as well as its modern meaning (as used by Newman) which denotes those who hold that the Church of England is so situated. "Catholic", although widespread within the movement at the time, presents certain difficulties for today's writer, chief among which is the liability of confusion with "Roman Catholic". It is very much a theological opinion, in a period in which theological opinion took second place in controversy behind matters of actual practice. And it would not appear to have stood the test of time, in that most of the spiritual descendents of those associated with the movement in the time we are examining would refer to themselves not as "Catholics" but as "Anglo-Catholics"[10], partly as a result of the perceived distinction between "Prayer Book Catholics" and "Anglo-Papalists" (the latter being more of a label than a term of self-definition) in the middle years of this century, and partly as a reaction to the possibility of confusion with Roman Catholics already noted.

What of the terminology used by the movement's opponents? Whilst one can find many uses of terms of abuse which refer to the supposed links between the movement and the

institutional Roman Catholic Church, such as "Romanizers", "Crypto-Papists" and "Semi-Romanists"[11], these are unsuitable for use here as unduly polemical, and ultimately misleading, in that only a very few individuals at this time[12] secretly considered themselves to be Roman Catholics and the Church of England to be in schism. The very thrust of the movement was in the opposite direction - denying that the Roman Catholic Church had any legitimate part to play in English ecclesiastical life and asserting the Catholicity of the Church of England. More accurate, with these considerations in mind is the term "Romeward Movement", as in the title of Walter Walsh's less well-known sequel to The Secret History of the Oxford Movement[13], The History of the Romeward Movement in the Church of England, 1833-1864[14]. But this again is pejorative if more limited in its implications of complicity with the Roman Catholic Church, and also has the disadvantage of being cumbersome when used to refer to individuals associated with the movement.

"Puseyite" occurs in our period also, but since Pusey was not an unadulterated advocate of advanced ceremonial, this too must be discounted, although it does have an advantage in that it is specific to the 19th century.[15]

Other words which were used at the time to define the movement and which should be mentioned for the sake of completeness are "Sacerdotalist" and "Neo-Tractarian", both of which have something to commend them. "Sacerdotalist", as in The Record's review of Shipley's The Church and the World ("We believe the Sacerdotalist faction are mistaken if they flatter themselves that the First series was popular"[16]), although polemical, represents accurately enough the high opinions generally held in the movement concerning the importance and extent of priestly powers in the life of the Church. "Neo-Tractarian", as in The Daily News' comment on the same volume that "For all practical purposes this Book [*sic*] is the 'platform' of the Neo-tractarian or (so called) Ritualist party", is also historically helpful in suggesting that the movement was a development of the Tractarianism of the 1830s and 40s, derived from it yet distinctly different, as indeed it was. But these two words are both unfamiliar today and were rarely used in contemporary writing, compared with the most

frequently occurring of all the possible terms for the movement.

This is the term "Ritualist", which, as well as occurring frequently - along with its cognate "Ritualism" - in the vocabulary of the movement's opponents, was generally used by the public press in connection with the movement. So that, although it generally had a pejorative meaning read into it, it could be used without prejudice in order simply to define the group in question. Furthermore, in that, like "Puseyite", it was superseded by other terms by the time of the Great War, it is useful in that it carries a specific historic reference to the era in which the movement was subject to prolonged attack from without, this reference having been derived in great part from the use of the word by those who were doing the attacking.

It is usual to add the caution that "Ritualism" is a misnomer for what might better have been called "ceremonialism", a "rite" being the formula of words accompanying a set of actions called a "ceremony". Whilst this caution is a good one, as is indicated by the phrase "rites and ceremonies of the Established Church", it is rather pedantic to quibble. "Ceremonialism" and "Ultra-ceremonialism" occur extremely rarely, and writers within the movement frequently appear to have been unaware of any distinction between "ritual" and "ceremonial", the examples being too numerous to mention[17]. So even if the movement rejected the designation "Ritualist", an example being the Hon. Colin Lindsay's remark[18] that it was "a term [....] given to, but not assumed by, those whom it very inadequately describes," it would seem to be the best word available for the movement in question, hence its use in this work.

The Ritualists until the 1870s.

The fact that the preceding discussion about the term "Ritualist" is necessary suggests that the Movement was distinct from the Oxford Movement of Newman, Froude and Keble. Yet the later Movement grew directly from the earlier one, and even whilst Newman was still tenuously within the Church of England there were some advances in ecclesiastical Ritual among the younger and more extreme followers of the revival of High Church doctrine. It is

a matter of speculation how much greater such tendencies would have been had not Froude died young - his temperament was that of a natural medievalist and romantic.

Very soon after Newman's conversion to Rome, something which was clearly the earliest phase of Ritualism became apparent, primarily in Leeds, where Pusey's new Church, St Saviour's, attracted criticism for its Cathedral style of services and for the frequent secessions of its clergy. Those who attacked St Saviour's included the majority of Tractarians, as well as members of the Low Church party which had opposed the Oxford Movement since its inception. Pusey himself and his followers considered that any sumptuousness or elaboration in divine worship was inappropriate to the conditions of the Church in England at the time. Leeds was not an isolated example of High Church Ritual, and by later standards it was fairly moderate - coloured stoles and chanted psalms being as far as it went. Outbreaks of Ritualist practice occurred in many places during the remainder of the 1840s. By the end of the decade, there were isolated instances of the use of vestments and incense, and in the period to 1870, such tendencies were allowed gradually to increase.

With the gradual development of Ritualist practice came a corresponding growth in the vehemence of the attacks on it. Whilst the Tractarians contented themselves with scholarly refutations of the Ritualist mode of procedure, the Low Church party attempted to deal with the problem by other means. As early as 1845, a proto-Ritualist was brought before the Court of Arches, the principal ecclesiastical court of the Canterbury Province, by a Low Church protester. In this case (Faulkner *versus* Litchfield, concerning St Sepulchre's, Cambridge), the Dean of Arches declared that a stone altar and any form of credence table were illegal. As with most anti-Ritualist cases during the 1845 - 1868 period, the concern was with objects of church furnishing, rather than ceremonial *per se*.

Many of the early developments of Ritualism were in fairly out-of-the-way places - George Rundle Prynne in Plymouth, John Mason Neale in the depths of the Sussex Weald, Robert Hawker at Morwenstow - but with similar developments in London at St George's-in-the-East

and St Barnabas, Pimlico in the early 1850s another manifestation of Low Church anti-Ritualism became apparent. This was mob violence and mass protest, causing disruption to Ritualist services, and a recurring theme into the present century.

Seclusion from London did not however guarantee exemption for High Churchmen from attacks on their teaching and practice: Archdeacon Denison, of East Brent in Somerset, was not at this stage a Ritualist, but simply an outspoken exponent of Tractarian doctrine. In 1854, he was tried for heresy because of his High Church Eucharistic teaching, but the final decision in this case made it very difficult for any further prosecutions to be brought against High Churchmen for false doctrine. This impression was reinforced by the later prosecution of William Bennett of Frome. Consequently, Robert Liddell of St Barnabas, Pimlico was prosecuted for Ritualist furnishings in his Church. As with later cases, there were several appeals by Liddell and the result was at least a partial victory for the Ritualist side: the Judicial Committee of the Privy Council, the highest court of appeal for the case, reaffirmed the 1845 judgement on the illegality of a stone altar, but reversed it as far as the use of a credence table was concerned. The Low Church party was discouraged by the equivocal result, finally given in December 1857, and drew back from further action against Ritualists. The early 1860s, in fact, saw something of an alliance between Tractarians and conservative Low Churchmen in reaction to the alarming liberalism displayed in the volume Essays and Reviews. These years accordingly also saw a growth among Ritualists, both of number and quality, which eventually could no longer be ignored by the opponents of such things. The formation of the anti-Ritualist persecuting body, the Church Association (1865) and its rival the Ritualist English Church Union (1859) marked the end of this period of relative peace. It is thus with the launching of a prosecution against Alexander Heriot Mackonochie, Vicar of St Alban's, Holborn and leading member of the Society of the Holy Cross that this study must begin.

NOTES ON INTRODUCTION

1 e.g. Lives of Tait, Pusey, Thorold, Lowder, Pelham Dale and so forth.

2 Societas Sanctae Crucis.

3 M.Reynolds, Martyr of Ritualism: Father Mackonochie of St Alban's, Holborn, p68.

4 J.Bentley, Ritualism and Politics in Victorian Britain, p.viii.

5 cf W.J.Fong, The Ritualist Crisis: Anglo-Catholics and Authority with special reference to the English Church Union 1859-1882, and also G.Bayfield Roberts, The History of the English Church Union 1859-1894, compiled from Published Documents, together with a Sketch of the Origins of Church Unions, and a Vindication of the Position of the English Church Union.

6 Webster's Third New International Dictionary of the English Language, Chicago, Encyclopaedia Britannica, 1981. Vol.II, p1648, col 2b.

7 *ibid*., p1480, col 2a.

8 O.Shipley (Ed.), The Church and the World: Essays on Questions of the Day in 1868, pp224-251.

9 *ibid*., p244.

10 W.S.F.Pickering, Anglo-Catholicism: A Study in Religious Ambiguity.

11 For this latter term, see e.g. Athenaeum Magazine review of O.Shipley (Ed), The Church and the World: Essays on Questions of the Day in 1866, and quoted in endpapers of Shipley, *op.cit.*, 1868.

12 I am thinking particularly about the clergy associated with the Order of Corporate Reunion, as in Frederick George Lee, George Nugée and Thomas Wimberley Mossman.

13 London, Thynne, 1898.

14 London, Nisbet, 1900.

15 cf A.Hughes, The Rivers of the Flood: A Personal Account of the Catholic Revival in England in the Twentieth Century, p19:

> Other nicknames which have passed out of use are "Puseyite" and "Ritualistic". I was once (seriously) called a Puseyite when visiting Walworth in 1912, and may perhaps claim to be the last survivor of that genus.

16 Quoted in endpapers of Shipley, *op.cit.*, 1867.

17 I quote at length from S.Baring-Gould, "Origin of the Schools of Thought in the English Church", in Shipley, *op.cit.*, 1868:

> The High Church party considers that it has a mission to perform - the witnessing to CHRIST, to the perpetuity of the Church, to the efficacy of the Sacraments. It surrounds those Sacraments with gorgeous Ceremonial, because, where the power thus to dignify is present, such Ceremonial is fitting and right. It is not, however, for Ritual that the party is fighting, but for Doctrine.

18 C.Lindsay, "The Ritual Law of the Church of England", in Shipley, *op.cit.*, 1868, p469.

CHAPTER ONE.

THE ROAD TO THE PUBLIC WORSHIP REGULATION ACT: 1869 - 1874.

Round the Sacred City gather

Egypt, Edom, Babylon;

All the warring hosts of error,

Sworn against her, move as one:

Vain the leaguer! Her foundations

Are upon the holy hills,

And the love of the Eternal

All her stately temple fills.

- Hymns Ancient and Modern No 603.

For the little band of Ritualist pilgrims, the outlook looked gloomy in the year 1869. In a minority within the Church of England, they saw nothing but troubles on every side. The Master of the S.S.C., A.H.Mackonochie, a somewhat forbidding Scotsman and a leader among Ritualists, was served with a Monition from the Judicial Committee of the Privy Council on 19th January that year, a clear defeat in the Courts for the Ritualist cause. Prospects hardly improved as the year proceeded: the only two Bishops who were prepared to defend Ritualism to any significant extent, Phillpotts of Exeter and Hamilton of Salisbury[1] both died during the year, and one of Benjamin Disraeli's final actions as Prime Minister was to appoint as Archbishop of Canterbury the Bishop of London, Archibald Campbell Tait, a man to whom Ritualism was not only abhorrent but incomprehensible.

Morale among Ritualists was not being helped by the steady trickle of clergy and laity leaving the Church of England for the Roman Catholic Church. Perhaps most notable amongst these was the Hon. Colin Lindsay, former President of the leading Ritualist organisation the English Church Union, who was received into the Roman Catholic Church on 28th November, 1868 by the future Cardinal, John Henry Newman. Such defections were seen as admissions that Ritualists were wrong to assert that the Church of England was a part of the

universal Catholic Church.

The poor state of morale can be seen clearly in events surrounding the Monition to Mackonochie. The Judicial Committee had given judgement on Mackonochie's appeal from the Court of Arches judgement on 23rd December, 1868[2], the matter of the judgement being that it was illegal for the celebrant to kneel during the Prayer of Consecration at Holy Communion, and that it was illegal for lighted candles to be placed on the Communion Table during the service, except for the purposes of light. Whilst Mackonochie himself, having appeared before the Judicial Committee, felt that he could not disobey the Monition[3], there was apparent a feeling amongst Ritualists that the Judicial Committee, not being an exclusively ecclesiastical court, had no competence in the matter. A meeting of "Ritualists and other gentlemen more or less in accord with them"[4] which took place on 13th January, 1869 "as a matter of course" protested "against the competency of the Court whose decision it met to consider". But as to what could be done about it, there was only the lame suggestion that every clergyman should "fight his own battle" according to individual circumstances. There was no concerted policy among the Ritualists. A couple of weeks later, the Times was reporting that Ritualists throughout the capital at least had abandoned Altar Lights and Incense - even the Ritualist bastions of All Saints', Margaret Street, and Saint Mary Magdalen's, Munster Square.[5] As Marsh remarks[6], "Disobedience of the Mackonochie judgement was restricted to the few determined ritualists", and this itself would appear to be an overstatement: the Ritualists regretted Mackonochie's attempts to obey the judgement (attempts which he later gave up, following his three month suspension of 27th November, 1870 to 26th February, 1871), but confined themselves to speaking against the Judicial Committee whilst effectively bowing to its authority.

Although the Purchas Case was not to bring unalloyed defeat for the Ritualist Movement, the commencement of this prosecution, again inspired by the Church Association, cannot have improved Ritualist morale.

The S.S.C. had produced An Address to Catholics. From the Brethren of the Society of the Holy Cross, distributed at the Wolverhampton Church Congress of 1867 with a companion tract on the Nature and Objects of S.S.C.. Embry described this as "a well-reasoned and sober-minded pamphlet, which enunciated the true Catholic position of the English Church, in opposition to the theories put out by Roman Catholics, Protestants and Latitudinarians."[7] The depression surrounding Ritualists in 1869, led to the revision and expansion of this pamphlet to reassure those who might be at risk of converting to Rome.

The Address sets out the claim for the Catholicity of the Church of England in reference to the events of the Reformation:

> Our forefathers succeeded in saving the essentials of doctrine and ceremonial; although in order to do so, in the revolutionary fury of the times, they were obliged to couch them in forms of speech often most indefinite.

Any "attack upon the Ritual is an attack upon the Faith", since Catholic Church Order was so fundamental to Christianity that "no possible authority can ever legitimately reverse or contradict it", least of all the Episcopate of the Church of England, a small and isolated branch of the universal body. This, already, constituted an appeal over the heads of the leaders of the Victorian Church of England to something greater, and obviously sprang from the Tractarian "branch theory" which proposed that the English Church was worthless if it was viewed independently of the entire universal Church. As with the arguments advanced by the opponents of the Ordination of Women Priests in the modern Anglican Communion, this attitude was concerned with an ideal which did not exist, a theory which could call on no physical, actual support, since the Church of England was, in practice,completely autonomous.

The pamphlet was not concerned exclusively with theoretical justifications for Ritualism: a number of practical recommendations for "defensive action" also appeared, with a heavy emphasis on the need to be united. At this stage, the Society's recommendations do not give the impression of having been clearly thought through:

> 5. Priests are urged to adopt *immediately* the vestments, lights and other adjuncts of the Divine Service, where this is practicable.
> 6. Also, they are urged to explain very carefully to their people the authority for their

> restoration, from Holy Scripture, the Church, common sense, etc., and to deal very tenderly with prejudices, however unreasonable.
> 7. Moreover, Priests and people alike are advised to place every possible impediment in the way of their removal where they are in use.
> 8. Also, to defend and strive for such use under all circumstances, and by all lawful means, even when this use may be prohibited or hindered.
> 9. To declare publicly and privately that the doctrine of the Real Presence is involved in the retention of these usages.[8]

This might seem to have been a little unrealistic in that it asked clergy to expose themselves to attack from anti-Ritualists without much hope of defence. More valuable in these recommendations was the recognition of the importance to be attached to teaching the people about the relevance of the disputed usages: the outside world too easily assumed that it was all just a matter of "ecclesiastical millinery", and the difficulties which some Ritualist clergy were to experience with their congregations were due partially to failure to educate them. Finally, the implication of the eighth recommendation was that "lawful means" might yet be employed against those in authority in the Church of England. This was fighting talk, and the (widely circulated) Address would seem at least to have helped to lift morale.

The Memorial to Convocation on the Judicial Committee.

The Address of 1869 was aimed at controlling the situation within the Movement; a measure of its success was that the following year the Society's main preoccupation was with preparing a Memorial (or petition) to be presented to Convocation - an attempt to influence those outside the Movement on the subject of the Judicial Committee of the Privy Council. It was chiefly the work of the Society's Secretary, H.E.Willington, and sprang partly from the continued legal troubles which the Master was experiencing at the hands of the authorities, now for alleged non-compliance with the Monition with which he had been served at the beginning of 1869, partly from the awareness that the concurrent cases of Elphinstone v Purchas and Sumner v Wix, upon which judgement was given by the Court of Arches on 24th February, 1870 was likely to be altered by the Judicial Committee.

The Memorial constituted a repudiation of the role of the Judicial Committee in ecclesiastical matters. The signatories contrasted their Ordination vows "to give faithful diligence always so

to minister the doctrine and sacraments and the discipline of Christ as the Lord hath commanded and as this Church and Realm hath received the same" with the fact that "a power has been gradually assumed by the Judicial Committee of the Privy Council, on behalf of the Crown, to try purely spiritual issues, and to give final decisions in questions of faith and doctrine."

As well as rejecting the Judicial Committee as a violation of the Order of the Church of England, and of the constitution, the Memorial also criticised the Committee's judgements.

> The language of the Book of Common Prayer and the Articles of Religion has by the same Court been interpreted, not by the recognized canons of theological language, but according to the private views of judges unversed in or regardless of ecclesiastical history and theological terms.

This supporting argument that the Judicial Committee was a bad thing because it had come to the wrong decisions, although to be proved in the eyes of many to be correct when the Purchas judgement was given, was fundamentally a poor one. No attempt was made to explain why no one within the Church had protested in such terms when the legal system had been reorganised and the Committee had first become the final court of appeal, nor was there any attempt to define in positive terms what Royal Supremacy meant. Finally, the argument in contrasting an ecclesiastical Court of Arches with a secular Judicial Committee fails to consider whether the Court of Arches was any less secular in that it formed part of a system controlled ultimately by Parliament. This last question was to become an obvious one at the time of the Public Worship Regulation Act.

Nevertheless, the Memorial was an impressive document, especially in the boldness with which it brought the Ritualist case before a largely unsympathetic Convocation:

> We declare, that we are unable consistently with our duty to God and the Church to acknowledge the authority in spiritual matters of the said Judicial Committee; and we humbly pray Your Lordships of the Upper and the Reverend the clergy of the Lower House to shield the Church from such unconstitutional interference of the civil power in questions belonging to spiritual jurisdiction.

This Memorial[9] was much of 1870 in preparation, and was presented to both Houses of

Convocation on 17th February, 1871[10]. It would appear that the timing of the petition's presentation was fortunate for the Ritualists, since during the time it had been in preparation, there had been significant developments in the legal struggle between the Ritualists and the Church Association. Embry, however, was misled by these developments and stated that:

> The occasion of the "Repudiation" Memorial arose from the Ritual Prosecutions which were now taking place. The Judicial Committee had assumed to itself the spiritual power of suspending Fr. Mackonochie for three months, and in the case of Elphinstone v. Purchas had reversed the decision of the Court of Arches that vestments, eastward position, wafer bread and the mixed chalice were legal.[11]

Mackonochie's suspension for failure in his observation of the conditions imposed upon him in the Monition of 19th January, 1869, beginning as it did on 27th November, 1870, influenced the final stages of the Memorial's composition (it was referred to as an example of the Judicial Committee "usurping spiritual authority by decreeing the suspension of a Priest from preaching the Word of God and administering the Sacraments and performing all other duties of the Clerical Office"). No doubt this helped with the task of gathering signatures. But the judgement of the Judicial Committee in the Purchas case can have had no influence on the Memorial, since judgement was only delivered by the Judicial Committee on 23rd February, 1871, almost a week after the Convocation received the society's petition.

The Purchas Judgement, however, proved to be a turning point of some importance in the fortunes of the Ritualist Movement, and the S.S.C.'s action in protesting against the Judicial Committee's role so shortly before such a controversial judgement must have helped the Society's standing within the Movement and the progress of the Movement itself.

John Purchas, of St James' Proprietary Chapel, Brighton, was an extreme and flamboyant Ritualist, already well-known for his collaboration with Dr Lee of Lambeth in the production of the Directorium Anglicanum[12]. The case which bears his name was watched with great concern by the S.S.C. (although he was never a member) and was of great importance in the struggle for Ritualism. The prosecution, under the Church Discipline Act, was brought originally by a Colonel Elphinstone, but was taken up, on his death by one Hebbert, a retired Indian Judge. There were thirty-five separate charges of Ritual offences considered against

him, including the blessing of a Crib and the claim that he "did suspend or cause to be suspended over the Lord's Table the figure or stuffed skin of a dove and did suffer the same to remain there during time of Divine Service", but as Marsh rightly points out[13], the two important subjects were the Eucharistic vestments and the Eastward position. On these two points, the Dean of Arches, giving judgement on 3rd February, 1870[14], upheld Purchas. Hence the appeal to the higher (and supposedly secular) court: as Marsh adds, "The wearing of eucharistic vestments was the quintessence of extreme ritualism, and its condemnation was necessary" if the phenomenon was to be defeated.

Unfortunately for the opponents of Ritualism (including Archbishop Tait, who was all the while in the background hoping for the suppression of the Movement), the judgement given by the Privy Council on 23rd February, 1871 went further than was hoped for: only the provision of Holy Water and the use of the Biretta remained uncondemned. The condemnation of vestments, as Marsh rightly observes, "might have met with sufficiently widespread approval to succeed", but the Committee also pronounced the Eastward Position illegal.

There were a number of reasons why the condemnation of the practice of facing away from the congregation during the prayer of consecration was a mistake. The Judicial Committee appeared to be contradicting its own reasoning in the judgement it had delivered on Mackonochie (if the words "standing before the table" ruled out all other postures than "standing", how could "before" be explained exclusively to mean "beside"?). Furthermore, the Committee seemed to be going against the plain meaning of the words in the Prayer Book. But the most significant factor was a practical one - that the Eastward position was not confined to the kind of Churchmen who joined the S.S.C. It was the historical badge of Protestant High Churchmen, and was widespread among those whom it would be correct to call Tractarians and who would certainly until this point have repudiated the appellation "Ritualist".

A Leading Article in the Times[15] rather over-optimistically saw the judgement as "the conclusion of a wearisome controversy," but was unable to overlook the problems involved with it, adding that "we cannot conceal from ourselves that the Judgement will be unwelcome even to members of the High Church Party who have abstained from the extravagances of Mr PURCHAS or Mr MACKONOCHIE."

Any such hopes proved vain: "The result of the judgement," declared the annalist of the English Church Union[16], "was to ally a number of influential persons with the E.C.U. [and the Ritualist cause in general], and hence resulted the famous 'Remonstrance,' which was signed by upwards of 5,000 of the clergy." The Ritualists were moved by indignation to further intransigence (Mackonochie himself, on the expiration of his three month's suspension a few days after the Purchas judgement, no longer even attempted to obey the Committee's judgements in his own or Purchas' case[17]), whilst those more moderate Churchmen who had until now distanced themselves from the Ritualist position were forced to reconsider their views in the light of the discovery that their own practices were technically illegal. Hence the 5,000 signatories of the English Church Union's remonstrance to the Bishops. The mood of the moment was that this aspect at least of the judgement was going to be generally disregarded (as it was even at the Altar of Saint Paul's Cathedral), and this cannot but have added respectability to those who wished to disregard the judgement's other aspects.

The S.S.C. debated its policy, in the light of these events, on 14th March, 1871[18] There was some support for the idea of resisting the Judicial Committee judgements by obeying them in Church whilst at the same time continuing to use full Catholic ceremonial when celebrating in private oratories. A motion to this effect was proposed by Haines and Chambers:

> That, under the present difficulties of the Church, it is advisable as far as possible to avoid all conflicts with the executive powers of the law: That, unless any direct attack is made upon a Catholic Church or priest, all matters should remain *in statu quo*: but if the Bishop, in his Episcopal character, determines to enforce [....] the judgement of the privy council, then the said Priest shall give the Bishop notice that he will not obey except under compulsion; but that if he be compelled he will stop all celebrations at his Church, and build oratories for the worship of the Faithful in his Parish: The said oratories to be and remain private property until such time as the present necessity be overpast.

The majority however, felt that such action, as well as verging on schism, was uncanonical: Edmund Grindle deprecated the saying of Mass in an unconsecrated place and suggested that Ritualists should simply "disobey the judgement and leave the issue to God." In the event, the only firm decision which was reached was to the effect that a declaration against the Judicial Committee was to be circulated for confidential signature, quite what effect this was expected to have further than mutual encouragement is unclear - some of those present, including Charles Lowder, were aware that Ritualist clergymen would have to be prepared to suffer even deprivation of their benefices if a policy of defiance of the judgements was followed, but Richard Rhodes Bristow of St Stephen's, Lewisham defined the mood of the meeting as "defence not defiance". The general impression was that everyone had slightly different ideas of what was to be done; despite the encouraging reaction among Tractarian Churchmen to the condemnation of the Eastward Position, the situation for Ritualists was extremely grave in the long term. Fortunately, the spotlight of controversy was to turn temporarily away from the liturgical questions, to the subject of Confession - a shift of emphasis for which the S.S.C. itself was largely responsible.

The Respite of 1872

In the wake of the Purchas judgement there was a feeling that, for the time being at least, the opponents of Ritualism had done their worst and the worst of the controversy was over. Nearly all Ritualist practices had been condemned in the courts, but not only were the two clergymen involved directly in the cases still at liberty to flout the judgements, but many less extreme Churchmen now plainly considered that their interest in the matter was inseparable from that of the Ritualists. As the Church Association was aware, the state of the law was such that each clergyman who ignored the judgement would have to be brought to book individually - an expensive and cumbersome task which was not relished by the Bishops or the courts - and the results so far could hardly have been considered satisfactory. Purchas himself ignored the judgement and, having made over his sizeable property to his wife beforehand, was unable even to pay the costs of the case as the Judicial Committee had ordered. Thus, at the S.S.C. September Synod in 1871, Mackonochie was able to speak of the "present lull in

persecution".[19] Realistically, it was not expected to last long, neither was it complete: legal moves were afoot against several Ritualist clergy including John Edwards of Prestbury and young Charles Joseph Ridsdale, from the fashionable Kent seaside.

The 1873 Memorial to Convocation on Confession.

The S.S.C. again adopted the expedient of addressing a Memorial to Convocation in the early months of 1873. This time, however, a subject more sensitive, if that were possible, than the Judicial Committee or the ceremonial against which it had declared, was chosen. This was the Sacrament of Confession, and Father Mackonochie was the leading force behind the selection of such a dangerous subject for publicity. Embry commented rather hopefully:

> While there were some who doubted the wisdom of this course, he was sanguine concerning it. He always held firmly to the conviction that controversial questions led many to an examination of them which, in the case of the single-minded, developed into an acceptance of the truth.[20]

Reynolds rather more realistically commented that the subject of Confession was unlike the ceremonial questions which had hitherto been the matter of controversy: these, "many Englishmen continued to regard as more comic than objectionable.":

> What aroused the persecuting instinct in people hitherto indifferent to religious controversy was fear of "sacerdotalism", above all of the power claimed by Catholic priests to hear confessions and give absolution. The idea of any woman's resorting to a priest for this purpose threw her menfolk into a state of puritanical hysteria.[21]

The truth of the thinking behind the Memorial embraced aspects of both of these quotations: Mackonochie was not so naive as to think that such a petition would win large numbers of converts to the support of Confession, nor was he so blind that he failed to realise the scale of controversy which it would provoke. The controversy itself would serve to put the Ritualist views on Confession before the public: all publicity is good publicity, or as a young Irishman, then still at Trinity College Dublin, was later to remark, "The only thing worse than being talked about is *not* being talked about."[22]

The Memorial, described in the press as "a very long and wordy document"[23], did not

confine itself to the subject of Confession, but also requested permission for the use of the First (and more Catholic) Prayer Book of King Edward VI, or the restoration of at least some of the practices omitted by the current book. Before the century was out, Lord Halifax, the second President of the E.C.U., had successfully obtained the permission of the Archbishop of York for the use of the 1549 Book in his Parish Church at Hickleton. The ecclesiastical climate had altered considerably by then, however, and he obtained this concession through private contacts rather than public lobbying.

The 1873 Memorial had been in preparation since January 1872 [24], and had 483 signatures of Ritualist clergymen upon it by the time it was submitted to the Convocation on 9th May, 1873. This Convocation had already encountered stormy waters over the Athanasian Creed, managing to please neither the conservatives nor the liberals by their eventual decision on this text, the use of which had been questioned in the 4th Report of the Royal Commission on Ritual delivered in 1870. But the S.S.C. Memorial put such questions into the background.

Embry picturesquely stated that: "While there were, as already intimated, many matters of liturgical suggestion in the Memorial, these became mere débris by the explosion which the firing spark of one clause effected."[25] The clause in question was that concerned with the subject of Confession:

> That, in view of the widespread and increasing use of sacramental Confession, your Venerable House may consider the advisability of providing for the education, selection and licensing of duly qualified confessors in accordance with the provisions of Canon Law.

The dropping of this stone into the shallows of the waters of public debate produced ripples which reached far out into the middle of the pond. As soon as Archbishop Tait, to whom the Memorial had been addressed in his capacity as President of Convocation, shared the contents with the assembled clergy, it was resolved to depute some of the Bishops to consider the teaching of the Church of England on the subject. Their decision took the form of a report, which was delivered on 23rd July the same year. Had Phillpotts or Hamilton still been alive, the debate might have been less one-sided: as it was, only the Bishops of Oxford and

Chichester (John Fielder Mackarness and Richard Durnford) drew back from entirely condemning the practice of Confession, whilst Tait described it as "alien to the Church of England", adding that he was "glad to know that every member of this Synod here present altogether repudiates the practice of habitual Confession, and that they all state with the utmost distinctness that they consider the sacramental view of Confession a most serious error."[26] The Committee took the view that the Common Prayer Book only envisaged Confession as a "special provision in two exceptional cases"; those who were unable by other, normal Protestant means to quiet their consciences and the dying.

Naturally, interest in responding to the Memorial was not confined to the Committee of Bishops: the Church Association, which from its inception had opposed the Ritualist use of "auricular confession"[27] arranged a mass meeting in Exeter Hall against the Memorial. The immoderate language of Lord Shaftesbury's address caused comment: he was already well-known as an extreme opponent of Ritualism, through his frequent introduction of legislation against the Movement, and he

> Would have been at once more wise and more just if he had exercised more restraint in the manner in which he spoke of the Bishops and even of his opponents.[28]

The Bishops should not, he contended, have dignified the proposal by considering it so formally: they should have simply rejected it out of hand there and then. Indeed, even the writer who criticised Shaftesbury's immoderate rhetoric felt that the Bishops were being unduly mild towards Ritualism *per se*: "If the Bishops cannot prevent it, the Laymen must try, and if they fail, the end of the experiment is near at hand."

The subject of Confession was also debated in the House of Lords, not for the last time, on 14th July, 1873[29], and the Archbishop of Canterbury appealed "to the government not to appoint High Church Professors, to patrons not to give benefices to men of extreme opinions, to Churchwardens to be on the watch against innovations and to Parliament to entrust more power to the Bishops". As with the discussion within the committee of Bishops, the debate was extremely one-sided, but was also unsatisfactory to those involved in that, as the leader which appeared in the Times the following day put it,

> It does not tend to assuage the growing alarm that the Archbishops should tell us, in effect, that they do not very well see what they can do. [...] The Bishops shrink from any step which might drive the High Church party as a body into some precipitate course of action. We do not believe that there is any such risk as they apprehend.[30]

This feeling of discontent with the perceived powerlessness of those in authority to prevent even this most distressing aspect of Ritualism (Shaftesbury called confession a "foul rag - this pollution of the red one of Babylon"[31]) can be seen as a clear cause of the introduction of serious legislation against the Ritualist Movement in the following year by Tait. Reynolds rightly mentions the sudden and accidental death of Bishop Wilberforce and the departure of Prime Minister Gladstone from 10, Downing Street as other reasons for this, but the subject of the Public Worship Regulation Act will be examined below.

The S.S.C.'s reaction to the great excitement which it had provoked was to sit firm and do nothing for the time being.[32] Despite Embry's optimistic assessment of the mood of the Brethren at the time (he claims it was "aware that the noise was too loud and discordant to last, [and] was also sanguine that the Petition had already done good, and would be overruled to produce further good"), the policy of avoiding further action was, it was made clear at the monthly Chapter in August, non-premeditated and at least partly the result of shock and dismay at the amount of controversy which they had generated. The Society was able to do nothing, both because its name had not publicly been associated with the Memorial, and because the subject had been taken up by the larger Ritualist body, the English Church Union. Practically speaking, the S.S.C. had followed the instructions "Light the blue touch-paper and retire".

The follow-up to the *furore* occasioned by the Memorial was in good hands, however: the E.C.U. organised the production of a Declaration by Pusey and 28 other clergymen, which was put before the public in the Times on 6th December, 1873. This was an idea which had originated with the S.S.C..The Declaration added nothing to the Memorial, except that it was very much a personal statement, insofar as all the signatories were themselves confessors and were thus defending their own practice rather than simply a concept. The controversy had died down considerably by the time this Declaration was published, and it did not really draw

much fire. The leading article of the newspaper in which it had appeared did however find space to attack it as "nothing but the individual opinions of a number of clergymen"[33], adding that even if the evidence for a priestly power of absolution could legitimately be deduced from the Common Prayer Book Ordination service ("Whose sins thou dost forgive, they are forgiven; and whose sins thou dost retain, they are retained"), then so far as the majority of people were concerned this would mean that the Prayer Book needed to be altered. The Prayer Book was clearly being used by both sides as a source of proof texts to be quoted in support of their doctrines, whilst texts which fitted less conveniently into their schemes were quietly ignored.

The year 1874 thus opened amidst the dying embers of the controversy over Confession. The dissatisfaction of the ecclesiastical authorities with the extent of their powers to suppress Ritualist practices seemed almost certain to lead to renewed persecution. Already, there were ominous court cases in progress: at the S.S.C. December Chapter of 1873, a vote of "sympathy and prayers" for John Edwards, Vicar of St Mary's, Prestbury in Gloucestershire, who was threatened with prosecution under the Church Discipline Act[34], and the January Chapter debated the enforcement by Bishop Selwyn of Lichfield of the terms of the Purchas judgement on two clergymen, Frederic Willett, Vicar since 1865 of West Bromwich, and his Curate, John Wylde, later Vicar of Pusey's great Church, St Saviour's, Leeds and author of a nativity play popular in Anglo-Catholic parishes in the first half of this century[35].

> Brother Wood [E.G.deS.Wood of St Clement's, Cambridge] said the obedience due by Priests to their Bishops was not any sort of blind obedience, but canonical obedience [...], i.e. [when the Bishop was] enforcing the law of the Catholic Church, and not [...] when simply expressing his own personal wishes or acting merely as the officer of the secular power.[36]

Chapter agreed unanimously to this opinion: if there was to be a battle over ecclesiastical legislation, some Ritualists, at least, felt quite ready for it.

1874. A Bill to Put Down Ritualism.

The anti-Ritualist mood in the popular press and in many portions of society was such that it was clear from the start of the year that an explosion was likely. Embry remarked that at this

time "the phantom donkey of Palm Sunday had been known to walk in certain Churches"[37], meaning by this that the anti-Ritualist fervour was being reflected by often ignorant or incorrect reports of Ritualist activities in the newspapers. The anti-Confession campaign brought on by the previous year's Memorial to Convocation, although abated now, was certainly not forgotten and to all this was added strong anti-Roman Catholic feelings in the wake of the Vatican Council.[38] It was with a certain inevitability, then, that it became known in mid March that Tait was shortly to introduce legislation aimed at curbing Ritualist excesses.[39] Tait was, it seems, motivated by concern about the changes to the final Court of Appeal brought about by the Supreme Court of Judicature Act in 1873 (there would no longer be any Bishops on it, giving the Ritualists more ammunition for their contention that it was a purely secular body[40]), but also by an awareness that public opinion made it likely that if the Bishops themselves did nothing to remedy the situation, then the lay legislators would take the task into their own hands. Lord Shaftesbury, the voice of the Church Association in the House of Lords, was always in the background, with legislation more extreme than Tait's. He was also aware that the Queen wished something to be done about Ritualism, and that now, following the death of Bishop Wilberforce, he -Tait- was without a rival on the Episcopal Bench.

Tait's plans were put before the new year meeting of the Bishops on 13th and 14th January, where it was met with cautious approbation. Unexpectedly, just over a week later, Gladstone dissolved Parliament, thus putting the first of a series of problems in the way of such legislation, since it had been proposed to introduce the legislation at the same time in Parliament and Convocation. This would not now be possible, as Convocation could not meet during Lent, when the new Parliament was first to assemble. If the legislation was delayed beyond Easter, it would not have enough time to pass through all the necessary stages, and extreme anti-Ritualists might anyway have preempted the matter by then with their own legislation. The election of Benjamin Disraeli and the Conservative party had the further effect of reinforcing Tait's desire to press ahead, since Gladstone the High Churchman was no longer a possible obstacle.

But all this was unknown to the public until 10th March, when news of the proposed Bill was broken, at Tait's request, in the Times. The way in which the news was announced made certain that Ritualists and more moderate High Churchmen would be alarmed: the continued use of the Eastward Position by Canons Gregory and Liddon of St Paul's Cathedral was cited as an example of the kind of Ritualist disobedience which the Bill was aimed at. That the Bench of Bishops themselves had n ot been consulted before this leak also added to High Church anxiety.[41] Essentially, no change was to be made in the substance of the law (the Purchas judgement and its like had made the Ritual laws all too inconveniently explicit), but "a simple, summary and inexpensive"[42] process was to be installed to enforce obedience to the Ritual law. Tait aimed to give coercive teeth to the authority of the Diocesan Bishops, as they were the only authority which Ritualists claimed to be ready to obey in matters ecclesiastical:

> He suggested that the diocesan bishop's decision in a dispute over ceremonial should be capable of being enforced immediately. If the incumbent did not obey, his benefice could be sequestrated. Since to invest each bishop with such arbitrary power would not be popular to say the least, Tait proposed the creation of diocesan boards composed of equal proportions of clergy and laymen to advise the bishop in exercising his new power. The lay members were to be elected by the churchwardens of the diocese.[43]

Pusey immediately attacked Tait's proposal in a series of letters in the Times[44]. He pointed out that some points of Ritual law were at that time under appeal to the new final Court of Appeal, which was not going to come into existence before November, so delay in legislation would be advisable. Also, the elective element of the proposed advisory body meant that indirectly ratepayers who might not even be Christians, let alone Anglicans, would be contributing to the choice of advisors; the attempt to enforce the prohibition of the Eastward Position, as well as being unwise, exhibited the one-sided nature of the Bill ("so called distinctive High Church practices are to be prohibited, but every neglect or wilful violation of plain rubrics by the so-called Low Church or Broad Church is to be legalised"[45]). The Bishops ought to act as "Fathers in God" rather than "being mere enforcers of disputed interpretations of the law".

It is apparent that Pusey was representing a moderate High Church point of view rather than anything more militantly Ritualist, and he added to his public comments, a private plea (with Liddon as cosignatory) to Mackonochie to seek for compromise on some points of Ritual:

> Would it not be possible to take some early opportunity of considering how much of recent additions to customary ritual could be abandoned without doing harm? We will not attempt to go into details. But surely matters of taste or feeling, not necessarily or of long habit associated with the enforcement or maintenance of doctrine, yet calculated to alarm the prejudiced and uninstructed, ought, on St Paul's principle, to be at least reconsidered.[46]

Curiously, Reynolds does not mention this particular episode in the life of his subject. Mackonochie's response[47] showed the difference in attitude: there was no room for compromise, as all ceremonial had its relevance and was "as a sermon preaching Christ" to those who used it. Besides, compromise was unlikely to avert the threatened attack, but would only encourage the opponents of Ritualism to demand further inroads into Ritualist practice. Mackonochie's denial that he had the "great influence" which Pusey and Liddon attributed to him rang less true.

After the publication of Pusey's first letter to the Times, there followed a debate on the proposals, with the Delane of the Times allowing Tait to reply anonymously by means of the leading articles. The Leader which appeared alongside Pusey's letter responded to his points as follows: delay was impossible, because if the Bishops "cannot devise some means for enforcing reasonable order in the Church, the work will be taken out of their hands"; the cases which were *sub judice* made no difference to the situation as unless the earlier pronouncements of the Judicial Committee were overturned they remained law; the objection to the presence of Churchwardens as not necessarily elected by Churchmen was theoretically valid, but was in effect an objection to the whole structure of the Church of England; and there was a qualitative difference between Ritualist violations of the Rubrics (which had a specific doctrinal thrust in mind) and Low Church violations which carried no doctrinal weight.[48]

The later stages of the debate are less significant, especially since Pusey and Tait became

side-tracked into arguing about whether Ritualism came from the clergy or the laity: Pusey claimed, despite his own clerical status that the laity "often presented the vestments to the clergyman. He wore them because the congregation had given them."[49]. Tait tried unconvincingly to claim that the legislation was impartial rather than directed against Ritualists (a result of pressure from Bishop Magee of Peterborough, Reynolds reports [50]). Pusey on the other hand suggested that legislation was unnecessary:

> If the Bishops, unfettered by the Judicial Committee, would consider in each particular case the joint wishes of the congregation and of the clergy, there would be no insuperable difficulty in ending these confusions.[51]

But most effective of all must have been a list produced by Pusey in his second letter exposing how lacking in detail Tait's proposals were at that point:

> There are many other questions about which we are yet in the dark:- 1. Would a Bishop be compelled to direct the power of this Court against any clergyman accused before it? 2. Would the Court deal with temporalities only? 3. What further penalties beyond sequestration can be inflicted? 4. Will the penalties extend beyond the Diocese so as to disqualify the condemned clergyman from officiating in another? 5. Is a Court, essentially civil, the creation of Parliament, to have nominally spiritual jurisdiction? 6. Can a Court, representing the inferior clergy and churchwardens of a diocese, bind the Bishop of another diocese? 7. Is a whole congregation, bound in affection to its pastor, to have no voice in retaining one whom a single Dissenter may accuse before this Court? If not, where are the rights of the people, whom, we are told, this Court is instituted to protect?[52]

Tait also faced opposition on the Low Church flank from Shaftesbury, since the proposals would appear to concentrate power in the hands of the Bishops and would do nothing to alter the state of the existing ecclesiastical courts.

During the first half of April, Lord Cairns prevailed upon Tait to make some alterations in his proposed Bill: the Bishop's advisory board was instead to be the same as that envisaged by the Church Discipline Act ("the dean or an archdeacon or the diocesan chancellor, a barrister of seven years' standing, and a nominee of the Bishop"[53]), and the Bill would be limited to clear violations of the law.

On 17th April, the Bishops met and, despite some reservations on the parts of Bishop Moberly of Salisbury and Bishop Mackarness, agreed to the proposed alterations. Throughout the process preparatory to the Bill's introduction, Tait had been the moving force behind it

and the rest of the Bishops comparatively uninvolved, their support cited when necessary to bolster the proposed Bill's standing, but their opinions unimportant to its formation.

On 20th April, Tait introduced the Bill in the House of Lords. It had lost its most controversial features, as Marsh explains[54]: appeals from the Bishop were to go to the Queen in Council, unless the Archbishop requested a provincial hearing; enforcement of the decision was to be assisted by an indefinite inhibition of any clergyman who disobeyed a monition. A weakness of the Bill was that counsel were still allowed to represent the parties, so that the law would be no less expensive to enforce than before. Tait spoke with some force against Ritualism, and the progress of the Bill through Parliament had begun.

Although Tait had hoped for rapid progress with the Bill, the House decided to postpone further discussion until after the forthcoming meeting of Convocation. The Archbishop was aware that the Lower House of Convocation was certain to disapprove of the Bill, but he managed to distract the House from the question by referring the clergy back to their own resolutions on Church discipline made in 1869. The report of Convocation, even so, contained so many suggestions of alterations to the Bill that little of the original would have remained had they been adopted. A few of the recommendations were adopted for the second Reading of the Bill, so that Tait could claim that the authority of Convocation, as well as that of the Bishops was behind it, even though the general feeling of the Lower House was that all the cumbrous machinery of the distinctively ecclesiastical Diocesan and provincial courts should be revived, rather than any parliamentary legislation.[55] Tait's Bill was also coming in for some criticism from elsewhere: the Times, no longer acting as Tait's mouth-piece, sought to preempt Parliamentary alterations to the Bill by attacking the episcopal discretion as likely to be "fruitful in jealousies and suspicions of partisanship", especially given the way the Bishop's board was now going to be "nominated mainly, if not wholly" by the Bishop himself[56]. It also voiced concerns that "indecent haste" was being used for the prosecution of the Bill.

Whilst Convocation was still considering its answer to the Archbishop's questions the

proposed legislation was the primary topic of discussion at the S.S.C. May Synod.[57] The afternoon of 6th May was given over almost entirely to debate on the subject of the attacks on Ritualism: at the previous Synod it had been resolved to debate the "Present Position of Catholick[*sic*] Priests in view of Ecclesiastical Proceedings" and this took first place, but the "Archbishop's Bill" was introduced as a "Special Subject". Father Wood of Cambridge was the main speaker in the first of the debates.

> Br E.G.Wood maintained that Catholics ought not to appear before Secular Courts. He denied that the Privy Council or the Final Court of Judicature possessed any spiritual authority, and maintained that the so-called ecclesiastical courts have ceased to be Church Courts, inasmuchas they are regulated by the "Church Discipline Act" which is a purely Parliamentary Act. A layman has no right to try ecclesiastical persons in ecclesiastical cases. Even the act of a Bishop is not a spiritual act if done in conformity with an Act of Parliament. The acts of so-called ecclesiastical courts are bound by the decisions of the Queen in Council, and the State (Br Wood argued) has no right to legislate in spiritual matters, any more than in matters of science. He thought it immoral to appear before such a Court & then not obey its judgements.

Mackonochie's reaction to the last statement is unrecorded; he had, after all, appeared before the Judicial Committee and attempted to obey the resulting monition a few years before.

The debate that followed Wood's speech displayed a variety of opinions surprisingly diffuse. Thomas Mossman, a humble Lincolnshire Rector, and not yet consecrated a Prelate of the Order of Corporate Reunion[58] was first to respond. Whilst Wood's opinions were "very beautiful as a Theory", he contended that the Society had to look at things as they really were rather than how they wanted them to be:

> Our Archbishops consider themselves officers of the State, & of course take a totally different view of the case from ourselves. There seem to be two courses open to us, should the decisions of the Courts go against us: (1) Disobedience, & sooner or later deprivation, & (2) evasion, i.e. obedience in public services in Church, but not so in Oratories & places of worship not under the control of the Bishop.

As has already been noted the Society had discussed the latter of Mossman's two options in March 1871, when it had been considered to go against Canon Law, as was pointed out later in the afternoon by Charles John Eliot, then Curate of St Augustine's, Kilburn[59]: Mossman's suggestion of the use of private oratories may indicate his extremism. In 1874 he was prepared to conduct services without the permission of his Bishop; in 1877 he was

prepared to undergo clandestine consecration to the episcopate.

The next speaker, Frank Nutcombe Oxenham, then Curate of St Barnabas', Pimlico and later to travel to Rome in order to lecture on the invalidity of Papal claims[60], represented a more moderate wing within the Society. He thought that Wood had drawn the difficulties faced by the Brethren disproportionately large:

> He argued that the Courts do not legislate but simply <u>define</u> what the ecclesiastical law allows within the Established Church. We go to the Law Courts to ask, not whether such a Doctrine is true, but whether a priest has so far broken the contract, into which he entered at ordination, as to be able to call in the aid of the Law.

Similarly moderate, at least in comparison to Mossman, but not so conspicuously over-optimistic as Oxenham, was Edmund Grindle, Curate of St Paul's, Brighton, a Church which had been the first in Brighton to have a surpliced choir - as a local historian remarks, "This led to the erection of posters on houses in West Street proclaiming such absurdities as 'Morning Opera at St Paul's'"[61]. He held that "errors of procedure & errors of method do not take away the ecclesiastical element from the ecclesiastical courts."

Father Nihill of St Mary's, Shoreditch (and Master of the S.S.C. from 1882-1884), and Father Henry Hollingworth, then a Curate in the depths of the Sussex countryside but later to be transplanted to the slum parish of St Benedict's, Ardwick, both spoke in support of Wood's views: Nihill held that the present ungodly entanglement of spiritual and secular in the so-called ecclesiastical court system was such that "it is impossible to distinguish between them.", and Hollingworth "argued that the spiritual life, not the temporal adjuncts, of our position must be maintained".

The last to speak, before Wood responded to the opinions voiced, was the scholarly Frederick Puller, at that time stationed in the slums of Cardiff, but later to be a prominent author and Cowley Father, whose best-known *opus* was <u>The Primitive Saints and the See of Rome</u>[62]; it is less well-known that he also wrote in Xhosa[63]. He drew a distinction between attack and defence, claiming that Ritualists should acknowledge the power (he did not use the word

authority) of a Court before which they were dragged. "St.Paul (he reminded his Brethren) was prepared to plead before Nero to ward off a power which he could not help but acknowledge."

Wood then proceeded to reply. Puller's last point was dismissed with the observation that "when St Paul appealed to the Secular power that [*sic*] he was arraigned for a Secular offence - for causing a riot in the street - but that he did not appeal from the ecclesiastical to the secular power." For the other objections, he was uncompromising:

> He maintained that the So-called ecclesiastical courts differ from the old courts by virtue of the "Church Discipline Act", that the source of their authority is an Act of Parliament, and that they have ceased to be Church Courts altogether. Labour, by all means, he said, for the reform of these courts, but do not acquiesce in the present system.

Wood's was the voice of the extremer wing of the S.S.C., but with hindsight it is clear that the failure to pursue such a rigid policy would have jeopardised Ritualism's chances of survival in the face of the legal onslaught. However, if the S.S.C. had gone down the way indicated by Mossman, the extremists would have found themselves forced out of the Church of England altogether, to form a sect of their own, the equivalent of the Free Church of England [64] at the time or the "continuing churches" of today[65].

The members then turned to debate the "Special Subject" of the impending legislation, or the "Archbishop's Bill" as it still was at this point. Father Nihill introduced the subject:

> He maintained that if we are to be persecuted by this Bill, we are persecuted by a distinctly spiritual power. The "parishioner", who may move this engine, may be an agent of the Ch.Association [*sic*] who may put him into a parish for that express purpose. He hoped that Brethren would open their eyes to the consequences of the new act, one of which may be no less than the withdrawal of our spiritual jurisdiction. It is our duty to agitate against this Bill, which, if passed, will annoy & tease & eventually cause the disruption of the Church of England. What are we prepared to do? This question will come before us sooner or later - what concessions are we willing to make? There will be a variety of proposals put before us, & we must be ready with an answer. Two methods occurred to him then, (1) either, go on as before, & take the consequences, i.e. submit to the withdrawal of our spiritual power by the Bishop: or, (2) suddenly give up ceremonial altogether & take a holiday, holding Sunday services only. If (he said in conclusion) the whole Church of England should be raised by the sacrifice of a few devoted priests, we must be thankful.

Such pessimism was inevitable under the threat of the new legislation, but other members who spoke did not see things in quite the same way. Courtenay (The Rev'd and Hon. Charles

Leslie Courtenay, Canon of Windsor and Chaplain in Ordinary to the Queen - as such a more than usually distinguished Brother) wanted the Society to concentrate rather on attempting to prevent the bill from ever getting as far as the Statute Books. Wood asserted that "Should the Bishops put the Act into force, they should do so on the strength of an Act of Parliament, which can have no spiritual force whatsoever." And Lowder hoped (in a speech not reported by Lida Ellsworth, his biographer) that some kind of compromise might be reached:

> Don't be in a hurry (he said); we are brought into the present state of things, not by our own will, but by what we are bound to hold true, the results of which will be that the minds of clergy & laity will be brought to bear upon some concor dat. We must remember the state of the Church of England. If we see our way to securing to the Church of England The Eastward Position, Vestments, Lights and Incense, by giving up banners, processions and other ornate parts of worship, we might (he thought) do so; but then we should claim concessions on the other side, e.g. the discontinuance of evening Communions.

Lowder was being rather unrealistic: the opponents of Ritualism (whose "evening Communions" were so objectionable because discouraging the observance of the Eucharistic Fast, which at that time lasted from midnight the previous night[66]) were hardly in the mood to compromise. Besides, the Church Association knew perfectly well which Ritualist practices were most closely connected to the objectionable doctrines, and was unlikely to be satisfied by such an abandonment of peripherals. [67]

The Bill still being in the grips of the parliamentary procedure (and, as it turned out, still far removed from the eventual form it was to take), there were no firm conclusions which the members of the Society could draw from this debate. The attitude adopted by Nihill shows how fortunate for the Ritualists it was that the Bill was altered from the form it held at this point: the necessity of debating whether the new procedure was "spiritual" or "secular" in nature would inevitably have weakened the Society when it was attacked under the new legislation. As it was to turn out, the Act would eventually allow a much more minor role for the diocesan bishop, so that even those less militant than Wood would be able to see clearly that it was "secular" in origin.

The only concrete product of the debate on the Bill on 6th May was that, at the suggestion of Grindle and Enraght (the latter eventually destined to suffer imprisonment under the terms

of the Bill), a committee was appointed "for the purpose of watching the course of the Archbishop's Bill in Parliament".

Embry[68] quotes from an address by Mackonochie cautioning against panic "while the Act was being concocted":

> It is refreshing to recall how well the Society responded to this advice. It discussed its Statutes, a favourite proceeding for many years, not altogether unlike the sea captain's tact, who when work fell short, to keep his men out of mischief, always issued the order for the anchor to be scrubbed. A Society that could calmly turn its attention to the revision of its Statutes at such a time had certainly mastered the quietness and confidence which had been the strength of their Tractarian forefathers.

There are several flaws in such an account: Embry does not mention the long and impassioned debates on the Bill which are examined above, nor does he deal with the dangerous diversity of opinion within the Society at the time. And as for his interpretation of the revision of Statutes in which the Society was also engaged, the best that can be said for it is that it is a kind way of looking at the subject: for those less disposed to kindness, the figure of Nero fiddling whilst Rome burned, or of the ostrich burying its head in the sand so that it cannot see what threatens it, might seem more appropriate. The only major and concrete result of the revision of Statutes was that Mackonochie was able to use a new rule about the length of time a Master was permitted to remain in office in order to escape from the onerous position in 1876, leaving the Society in Francis Bagshawe's less confident control. Embry's opinions here are those not of an impartial witness but a partisan chronicler, as he himself admits.

The Archbishop's Bill was, then, unscathed by Convocation and indeed had its prestige boosted by Tait's skilful management of the issue in that assembly. It was, however, surrounded by a storm of debate, with even the Times obviously having second thoughts on the details of Tait's proposals: on the morning of the day eventually fixed for the second reading in the House of Lords, 11th May 1874, the newspaper damned Tait's initiative with faint praise in the light of the debate raging about it:

> The most obvious result of all this discussion is a general agreement of opinion that some legislation on the subject is desirable, and that the intention of the bill is, at all events, to be applauded.

Later in the same article[69], it was made clear that the newspaper was in agreement with Shaftesbury on the "cardinal fault" of the Bill as it stood: this was "the arbitrary discretion which the Bill is supposed to intrust [*sic*] to Bishops" and the role of his board of assessors:

> What is needed is that they [the cases] should be promptly and inexpensively decided by a Court of First Instance and that there should be a direct appeal to the highest judicial authority.

At the second reading itself that day, "the general opinion appeared to be that expressed by Lord GREY, that it afforded a basis on which satisfactory legislation could be founded".[70] Shaftesbury's intended attack on the role of the diocesan bishop and his tribunal were rather forestalled by yet another alteration in the body which was to assist the bishop: the Archbishop of York announced that the Court of Assessors was to be replaced by the Court of the Chancellor of the diocese, providing always that if a Chancellor was not a barrister, an appropriately qualified substitute would be found.

At the time of the second reading, it was already becoming clear what kind of alternatives to the Archbishop's Bill would emerge: the Times, again, commented that "the objections to the Bill which are most to be apprehended" were - on the two opposing sides of opinion - Shaftesbury's contention that Church Reform rather than these attempts to uphold the existing state of the Rubrics was needed; and Lord Selborne's fear that the present legislation would "press so hardly upon the High Church Party as to lead, if not to secession, to a determined agitation in favour of disestablishment". By the time the duly amended Bill was issued on 29th May, the nature of the contending options had become more apparent. The Times, the following day, presented the three possibilities: the Archbishop's Bill as amended by the token suggestions of Convocation; and the ideas of the Lords Selborne and Shaftesbury.

Of the two other possibilities, the Leader [71] commented on Selborne's proposals that they would "place a far greater power of initiative in the hands of the Bishops", adding coyly that "we greatly doubt whether either Incumbents or Bishops would like the prospect". Marsh

draws out the implied criticism:

> Selborne's amendments were intended to minimize litigation by vesting immense powers of initiative and discretion in the bishop. He would be empowered, without receiving a complaint, without a hearing, and without raising the question of whether the present practice of a clergyman was legal or not, to issue orders to him about the conduct of worship in his parish. [72]

Shaftesbury's proposal went, unsurprisingly, in the opposite direction: "whereas Lord SELBORNE leaves everything to the Bishop's discretion, Lord SHAFTESBURY would deprive him of all discretion whatever, and would convert him into a mere executive officer of the law." This would be achieved by the appointment of a judge for each Province, with a salary of £4,000 *per annum,* who would hear all cases. The subtext of Shaftesbury's proposals was that a revision of the Rubrics would also be necessary, since he allowed no room for the exercise of episcopal discretion even in the case of something obviously obsolescent.

The Times' editorial opinion was that "the Archbishop's Bill possesses at least the merit of striking a middle course between" the other two plans. Nevertheless, it approved of the simplicity of Shaftesbury's single judge for each Province - or, it was suggested "both provinces combined" - as contrasted with the multiplicity of Diocesan Courts.

The House of Lords went into Committee on the Bill on the afternoon of 4th June 1874, a process which would continue for most of the month. As the Times commented[73] "There never was a case in which people were less satisfied with things as they are, and at the same time in less agreement as to the remedy which is desirable." Tait's Bill was in an unenviable position. Two High Church peers, Lords Limerick and Marlborough brought forward motions: Limerick's to the effect that the remedy proposed in the Bill would lead to "vexatious litigation", and Marlborough's claiming that the time was inexpedient. But Limerick withdrew his motion, and Marlborough's was lost by 137 votes to 29, its proponents having lost the sympathy of the House by overstating the importance of the role of Convocation in the matter.

Then, the same afternoon, Shaftesbury's amendment on the subject of a single judge (the

separate judges for the two Provinces of York and Canterbury had been quietly amalgamated into the single figure) was debated. This was adopted without much of a struggle (the figures were 112 to 13), Tait forbearing to oppose the amendment because he had learnt that the Lord Chancellor, Lord Cairns, and by implication the government, supported the single judge idea. As Marsh observes[74],

> Now the only way for Tait to beat Shaftesbury's amendments was to abandon the Bill. That resort might be worse than what it meant to stop. J.M.Holt, a member of the Church Association, had presented a more drastic alternative bill to Tait's in the Commons, providing for prompt suspension by the diocesan chancellor of any clergyman refusing to give up illegal practices. If Tait withdrew his Bill, Holt's might be swept through Parliament by the Protestant storm which Tait's Bill had intensified.

The Bill was out of Tait's hands, and he was helpless to oppose the changes. As it passed further from the archiepiscopal grip, the influence of Disraeli's administration upon it began to increase. A sign of this was that Lord Cairns spoke on the Bill after the single judge amendment had been adopted. He rejected the ideas represented by Lord Selborne as liable to "turn all incumbents into curates of the Bishops"[75]; equally he rejected the Duke of Marlborough's contention that what was needed before such legislation was a revision of the Rubrics as being tantamount to saying that there would be no legislation at all. He did not, all the same, support Shaftesbury uncritically:

> While approving the judicial machinery which Lord Shaftesbury has suggested, he is willing to give the Bishops the discretion for which they ask with respect to enforcing the Law.

But he made it understood that such discretion should not be unlimited, but with clearly defined boundaries, in order to allow distinction between innocent breaches of obsolete Rubrics and the Ritualist offences. As the Times leader (at this point acting very much as a government mouthpiece) had put it the previous day:

> If in one Church the Clergyman is prosecuted for celebrating the Communion like a Roman Catholic Priest, in another some Ritualistic parishioner may call on him to adopt some such obsolete custom as the public catechizing of children.

The discussion, therefore, was ready to move on to the joint questions of the episcopal discretion ("it is hard to see what is the use of a Bishop if he cannot be trusted with this moderating authority" remarked the same leader quoted above) and the "neutralization of a

certain area of arguable ground" in the Rubrics. The large number of other amendments which were due also to be considered were, for the most part superseded by Shaftesbury's introduction of a single judge, so although the parliamentary session was becoming dangerously advanced, it seemed that the Bill was going to complete the process. Suggestions of an attempt by its opponents to "talk the Bill out" were dismissed as unworthy.

On 8th June a further amendment by Shaftesbury was accepted, this time with greater enthusiasm on the part of the Episcopal Bench. This was the provision that the diocesan Bishop could adjudicate in a dispute and pronounce an irreformable decision if only the two opposing parties agreed to submit to such adjudication. "The PRIMATE expressed a belief that the great majority of disputes would be settled by such a mode of arbitration."[76]

In the next days, interest centred on an amendment proposed by Bishop Magee of Peterborough to create the looked-for No-man's-land of accepted customs which broke the letter of the rubrical law. Marsh characterises the proposed exemptions:

> Some, such as evening celebrations of the Holy Communion, were evangelical practice; some, preeminently the use of hymns, for which the prayer book made no provision, were universal; only one was a High Church custom but it was critical, the eastward position.[77]

Another was the then controversial custom, common amongst Broad Churchmen, of omitting the prescribed recitation of the Athanasian Creed, an issue fudged by the same Convocation which had been so shocked by the S.S.C. Memorial the previous year.

Although he had the support of Lord Cairns, and another influential peer, Lord Stanhope, Magee withdrew his amendment on 15th June. He dreaded "the delay that it may cause in getting the Bill through"[78] and felt his amendment was now unnecessary, the episcopal discretion having been secured by means of a compromise with Shaftesbury, whereby a Bishop exercising his discretion would have to give some formal account of his reasons. Besides, an amendment had also been passed prescribing that complainants should give securities for costs, thus discouraging unnecessary litigation; and "there is no concurrence as to where the

exceptions shall lie"[79]. The Times adopted a disgruntled tone about Magee: "It does not say much for the deliberation with which the amendment was framed that he failed to foresee" the objections. The proposal to permit the omission of the Athanasian Creed was too much for High Church tastes and the proposal to admit the Eastward Position was objectionable to the opponents of Ritualism, so Magee's amendment would anyway have been unworkable.

With the withdrawal of the Bishop of Peterborough's proposal, the form of the Bill for its third reading was more or less settled, and the House of Lords seemed to be perfectly happy with it, even if the thought must have been at the back of some minds that eventually a more fundamental approach, based on revision of the Rubrics, would be necessary. A minor step towards this solution was to occur on 19th June when Cairns, in his capacity as Lord Chancellor and acting on Tait's request, issued Letters of Business allowing the continued discussion of such reforms by Convocation.

But as events had progressed the concern within the Ritualist Movement had become so acute as to lead to the arrangement of a public meeting on 17th June, under the auspices of the English Church Union. Although this was mocked for its sedateness and the irrelevance of much of what was said - the Times called it a "room full chiefly of clergymen listening to long speeches, humorous allusions, old stories and almost everything that was not argument from sunset to midnight"[80] - this very criticism points to the real value of the meeting as a morale-boosting exercise. As Marsh rightly points out, it was also an occasion of co-operation between the Ritualists and the less extreme elements within the High Church party: the Tractarians were as firmly opposed to the Bill as it now stood as were the likes of Edmund Wood and Alexander Mackonochie. The Bishops were seen as the villains of the piece and, as a solution to the woes of the Ritualists, the authority of Convocation was invoked. Convocation was a body scarcely more representative of the Church of England than Parliament, and the majority of Anglicans were anyhow firmly opposed to Ritualism, but this was conveniently ignored. But the unity among High Churchmen and Ritualists must not be over-rated; the Guardian, representing a shade of moderate High Churchmanship even went

so far as to defend the Bill as it now stood.[81]

The House of Lords, proceeded oblivious to such Ritualist rallyings: at the same time as the announcement about the letters of business allowing Convocation to discuss the revision of the Rubrics, Lord Cairns also announced that the single judge who was now to be appointed under the provisions of the Bill, and who was eventually to succeed the Dean of Arches and the equivalent officer in the northern Province, was only to receive £3,000 annual salary. This cost-cutting measure was attacked immediately in some quarters as liable to make the new judge appear unimportant and thus to encourage appeals from his judgements. There was, it was true, a distinct appearance of demotion, since the Dean of Arches drew a salary of £4,000 *per annum*, but it seemed a minor point. As it happened, the issue of the judge's salary was to be one of the chief problems associated with the early stages of the operation of the Act.

On 25th June, 1874, then, the Bill was read a third time and passed in the House of Lords. An appearance of unanimity and calmness pervaded the debates on this third reading, though at least one commentator found this "general effort to represent the Bill as perfectly innocuous and colourless"[82] unconvincing in the extreme. The unanimity was only broken by Lord Salisbury's continuing doubts on the advisability of proceeding: otherwise, even those peers whose suggested amendments had not been adopted now accorded the measure a convincing amount of support. The unanimity may have had a little to do with an unspoken awareness that the Bill was unlikely to be passed, owing to the short amount of time for the House of Commons to deal with it, and indications that the government was not going openly to throw its weight behind it. Disraeli had stated publicly in his speech to the Merchant Tailors' Banquet that the Public Worship Regulation Bill was not a government measure and, if the Low Church Cairns was a trusted and high-ranking member of the Cabinet, so was the equally High Church Salisbury. Behind the scenes (and thus without the knowledge of the Ritualists) Tait was attempting to exert pressure on Disraeli to make him adopt the measure[83], and the Times, not now speaking directly for the government on the subject, threw its weight behind the drive to ensure that the Bill would become law.

The Bill was due to be presented to the House of Commons on 9th July, but before this could happen, the unanimity which had accompanied the passing of the Bill in the Lords had begun to disintegrate. Tait, at the third reading, had commented that the revision of the Rubrics should not "follow any sooner than can be avoided", and this painfully obvious demonstration that the Letters of Business so recently accorded to Convocation were a mere sop to the Ritualist elements in the Church caused Bishop Christopher Wordsworth to break ranks. His suggestion, supported by other High Church Bishops, was to introduce a new Ornaments Rubric, providing for the wearing of either surplice or chasuble during services. Although Convocation was quickly prorogued for the summer without any decision on the matter, there had been sharp exchanges on the subject of the Bill, and the Ritualists had been shown that the Bishops were not so bad as they had previously supposed: Wordsworth, at least, felt the heart of an apostle beating within him.[84] The breakdown in unanimity among the Bishops cannot have increased the chances of Disraeli throwing the government's weight behind the troublesome Bill; he certainly was not convinced by Tait's special pleading that it showed that the Bill needed to be passed so as to prevent the episcopal guardians of the Protestant Episcopal faith from being bullied or persuaded into making concessions.

The Times sought to allay fears concerning the wisdom of the Bill, adopting a middle of the road Anglican tone of great earnestness. The very earnestness indicated a deep uncertainty as to the Bill's chances of success:

> Put together all the consequences which might ensue under the Bill from a combination of frantic Ritualists, obstinate Low Churchmen, "mad" Bishops, and prejudiced Judges, and it is easy to construct such a picture as might well frighten the House [....] We have to assume that the Bill will be administered by reasonable agents, and that there are some limits to ecclesiastical fanaticism.[85]

The old bugbear of Disestablishment was also mentioned.

The Bill was introduced by Russell Gurney, an eminent barrister and Tory backbencher, but his speech was immediately forgotten in general surprise at the next contribution to the debate. Since his defeat in the recent General Election, Gladstone had avoided the House,

preferring to spend his days at home in North Wales, but he now chose to involve himself in the Public Worship Bill's progress. He knew that his views on Ritualism were out of step with many supporters of his party, but felt that, Disraeli maintaining the governmental policy of neutrality, there was nothing to lose by standing up for his High Church views in a non-partisan debate. There was, he urged, no consensus in Church or government about the Bill, and he attacked the idea that a rigid uniformity was necessary to preserve the bond of unity within the Church of England. He was also aware that by renewing the debate, he would be further reducing the likelihood of there being sufficient time for the Bill to pass into law.

Gladstone's views were immediately opposed by his former Solicitor General, Sir William Vernon Harcourt, who used the old Erastian arguments for ecclesiastical conformity with the law of the land. Marsh describes Harcourt, who sprang from the family of Edward Venables Vernon Harcourt, for thirty-nine years Archbishop of York earlier in the century[86], as "dedicated to the subjection of Church to State, a champion of the laity against the clergy, and a backwoods Protestant steeped in the stories of the Reformation"[87]: certainly, he was to stir up further anti-Ritualist agitation (that more frequently associated with the name of John Kensit) over twenty years later, in July 1898, by writing a series of letters to the Times "wherein he began to bray upon the well-worn Protestant Trumpet"[88]. Harcourt's speech on 9th July, 1874, as well as giving a lead to the supporters of the Bill, demonstrated efffectively that Disraeli had nothing to fear about making a firm commitment to it as the Liberals were as disunited on the subject as was his own party.

Little more of interest was to follow that day. The Conservative backbencher, Gathorne Hardy supported Gladstone but encountered not only the noisy opposition to which Marsh alludes, but also the interruption of his speech by the appearance of a large tabby cat in the House[89]. The Times leader the next morning commented acerbicly that

> The cat which interrupted Mr HARDY's speech betrayed, perhaps, a too intelligent apprehension that the interest of the debate was over.[90]

Gladstone, at the end of his speech, had proposed six resolutions, which although wordy and

impracticable, as Marsh asserts, formed the focus of debate in the press for the next few days, whilst behind the scenes Disraeli considered his options. Gladstone's behaviour was seen in some quarters as a form of electioneering:

> He invites everybody, whether shepherd or sheep of his flock, who is in distress [...] or is discontented with things as they are, and plainly tells them all round that they may reckon on his aid to let them go their own ways.[91]

It was noted that during his time in office, he had never seen the need to pass legislation of the kind of *laissez-faire* nature displayed by the resolutions. Gladstone's views would lead to a "complete disintegration of the Church, and to the entire substitution of the Congregational idea for the episcopal and the national", a criticism which has often been made about Anglo-Catholicism since that time[92]. Disraeli, in the speech in which he announced the timetable for the conduct of the remaining business of the Session (and thus the decision to allow the Public Worship Regulation Bill time to pass), was able to do his own rather more effective bit of electioneering by trying to identify Gladstone's resolutions with the views of the entire Liberal party. This was detected by the Times, which pointed out that "Mr GLADSTONE's Resolutions belong to himself alone. They have never been approved by the Opposition, and they are not approved by the Opposition."[93]

The Ritualist cause appears, therefore, to have been very much a "hot chestnut", with Gladstone's party eager to distance itself from his support for the Movement and Disraeli attempting to score political points by alleging the Liberals to be the party of Ritualism. The mood of the country on the subject may thus be safely estimated to have been generally opposed to Ritualism and in favour of the Bill at this point. The Times, however, attempted to adopt a broader view at least of Gladstone's actions: this was not the first time that Gladstone had stood for a minority opinion, and on one such issue, the Ecclesiastical Titles Act of 1851, "most men will now admit that Mr GLADSTONE was right"[94]. On the other hand, the opinions which he had put forward for the minority in another such case (the establishment of the Divorce Court in 1857) remained as unpopular in 1874 as when they were first brought to the public opinion. It is perhaps significant that both in his opposition to the legislation on divorce and in his attack on the Public Worship Act he was acting under

the influence of his High Church opinions, rather than for political motives.

On 14th July, then, Disraeli's announcement of the plan for the conduct of business for the rest of the parliamentary session made it plain that, unless derailed by some form of Ritualist fillibuster, the Bill stood a fine chance of becoming law. On 15th July, the debate on the Bill was resumed, Gladstone's six resolutions forming the main subject of attention. The Standing Order closing the debate at 6pm had been suspended and a hopeful commentator suggested that "it is quite within possibility that the House may sit til noon next day, as gamblers of another sort have done before this."[95] In the end, the debate only lasted seven hours, and was heavily weighted against Gladstone. Disraeli finally threw his weight publicly behind the Bill, incidentally coining the two famous phrases, "Mass in Masquerade" and "to put down Ritualism". The Bill passed its second Commons reading without a vote. The Times, the following morning, as well as doing precisely what it had mocked the House of Lords for doing (making, that is, the Bill sound so inoffensive as to be completely unnecessary), commented thus:

> We must not be hurried by the mere contagion of sympathy into a course which in later and calmer moments we may regret. Reviewing, however, once again the character and promise of the Bill [...] we see no reason to apprehend any future change of opinion as to its merits.[96]

On 16th July, Gladstone bowed to almost universal pressure and withdrew the resolutions which were attracting him so much opprobrium. Tait meanwhile was in a state of exultation, as was Queen Victoria. On 18th July the Committee stage was reached, and Gladstone's fellow High Churchmen fought a rearguard action to defeat various amendments which would have made the Bill even worse. They did not have much success, it seemed, even in this struggle. Certainly, a multitude of minor suggestions there were over which to argue as the Session drew nearer and nearer to its close. Gladstone himself left town for the north on 27th July, letting it be known that he did not intend to return until the next session.

At Russell Gurney's suggestion, the date on which the Bill was to come into force was put back from January 1875 to July the same year, on the pretext that this allowed Convocation

time to suggest amendments to and modernizations of the Rubrics. Another Conservative member, Lowe, proposed to introduce during the next session a Bill to repeal the 1841 Church Discipline Act and to extend the authority of the new Judge over all ecclesiastical offences, whilst Monk proposed that the new Judge should absorb, "as vacancies occurred, the functions of all the Diocesan Vicars-General and Official Principals"[sic]. The Liberal Cowper-Temple wanted a referral of each individual case to the interested congregation - an amendment which would have nullified the entire *raison d'être* of the Bill. Dillwyn wanted to excise the episcopal discretion envisaged by the Bill, whilst Childers (not, it seems, Holt as Marsh claims[97]) wished to provide an appeal to the Archbishop of the Province against the way the Bishop used his discretion. This was to prove the last hurdle over which the promoters of the Bill would have to jump, but two other major questions first emerged and must be dealt with; the application of the terms of the Bill to bodies usually exempt from such legislation, schools, universities and cathedrals, and - more importantly - the salary of the Judge to be appointed under the terms of the Bill.

The question of the public schools, university chapels and so forth was important because, as the Times, again, said:

> More mischief [...] is sometimes done by injudicious Ritual in chapels where young people assemble, than in churches attended by less impressionable congregations.[98]

Such considerations and the very public High Church stance of the Dean and Canons of London's own Cathedral made an outcome unfavourable to the Ritualists inevitable here too.

"Money answereth all things"[99], wrote one of the more cynical of the Scriptural writers. The question of the salary of the as yet anonymous judge was discussed in Committee at some length and with great animation: the alternatives were finding a Parliamentary means of finding the money or simply charging the judge's upkeep to the Church. The latter option, Gurney's proposal, would inevitably enrage Ritualists and High Churchmen even more than the proceedings to date. Throughout the passage of the Bill through the Lower House, the atmosphere was violently anti-Ritualist, with cheers for expressions such as the "parliamentary

church" and the assertion that the Queen was the head of the Church of England. But the Times observed:

> It is declared to be contrary to Parliamentary understanding and a robbery of the scanty means set aside for preaching the Gospel to the poor, to pay the new Judge from the Common Fund of the Church. This we cannot see ourselves. It is Church work, and the Church may therefore pay for it.[100]

The Bill was clearly a popular measure, reflecting widely held views of the Church of England. Gladstone, to the surprise of all, returned from the country to protest against the use of the Church Commissioners' money [101]. Gurney withdrew the amendment, thereby leaving no provision at all for a salary in the Bill as it stood - "The neediest barrister of ten years' standing would probably decline the post on such terms"[102]. Disraeli stepped into the breach, proposing that the salary should come from the Consolidated Fund for three years, until the post became self-sustaining through ecclesiastical fees. This, however, occasioned much opposition among M.P.s, who considered it an unwritten rule that state money should not be used for such purposes, even if they did think of the Church of England as a "state church". The mood was one of exasperation: some Members thought the others were being unduly parsimonious, whilst the withdrawal of Gurney's amendment was regretted by others, who considered that "Mr GLADSTONE's vision of devoted curates mulcted of their salaries to pay a tyrannical judge was an imaginary bugbear".

> At last, in despair, Mr SCOURFIELD suggested "the universal refuge of the destitute - an annual bazaar" - the ornamental articles, we suppose, to be contributed by Ritualistic young ladies.

This was on 29th July; two days later, Disraeli announced that a retired judge, understood to be Lord Penzance, had consented to serve as Judge under the Bill without receiving any emoluments further than the pension which he already received. So it appeared that this problem was dispatched, although outrage was still felt that "the one thing the House of Commons could not do was to find three thousand pounds in all England to pay a new Judge."[103] It did not escape the notice of commentators that the Church of England supported a large number of virtually obsolete functionaries, and that ecclesiastical fees stood at £72,000 *per annum.*

Gladstone, the same day, attempted to talk the Bill out: a disproportionate amount of time was spent on discussion of the proposal to amend the section dealing with proceedings against material alterations in church buildings "forbidden by law". It was noticed by the Bill's supporters that this phrase was likely to give rise to many hours of legal wrangling because of its vagueness; Gladstone not unnaturally opposed the alternatives of "without a faculty" and "without lawful authority". He lost, but turned his attention forthwith to the question of an appeal to the Archbishop against the exercise of the episcopal discretion. This question was to throw a final spanner in the works in the House of Lords, to which the Bill had to be sent back before finally being passed, but at the present point, its importance was purely the matter of time or lack of it.[104]

The third reading in the House of Commons was on 3rd August 1874, and before this, a further announcement was made on the subject of the judge's salary. Disraeli had been either mistaken, or lying when he claimed a day or so earlier that the judge in question was willing to forgo any emoluments further than the pension he already received: the Archbishops, it was announced had undertaken to make good the omission of any provision for the salary before the Bill actually came into operation (in eleven months' time), through rearranging the ecclesiastical fees. Disraeli did not make his position more tenable by claiming that he had not referred to Penzance at all, but to "another eminent and distinguished judge", which seems curious in the extreme, since it was most definitely Penzance who had been appointed.

The Bill then went back to the House of Lords on 4th August, and here the only object of debate was the right of appeal to the Archbishop from the episcopal discretion. So much effort had been expended on the passage of the Bill to this point that it was obvious that, although the nine Bishops who led the opposition to the idea of an appeal from their discretion were to carry the day, the Commons were not likely to reject the entire enterprise. There was, as Marsh shows[105], a great deal of bluster about the matter, but one should not be misled into taking it too seriously. The Bill had outstayed its welcome, it was tedious in the extreme, everyone generally approved of it, and no one wished to have to go through the

entire contentious process again next session. The Bill passed finally on 5th August. As the Times put it, "We are not entering upon a period of chronic contentions, but of more assured peace."[106] Whether Ritualists considered this to be the case as they looked powerlessly on, was another matter.

NOTES ON CHAPTER ONE

1 cf H.P.Liddon, Walter Kerr Hamilton, Bishop of Salisbury, A sketch.

2 for more details, see M.Reynolds, Martyr of Ritualism, p147 and *passim*.

3 Reynolds, p149.

4 The Times, 14 January 1869, p8d.

5 *ibid*., 1 February 1869, p5a. A fact which is overlooked in the treatment of William Upton Richards, then Vicar of All Saints', Margaret Street in P.Galloway and C.Rawll, Good and Faithful Servants. All Saints', Margaret Street and its Incumbents.

6 P.T.Marsh, The Victorian Church in Decline. Archbishop Tait and the Church of England 1868-1882, p125.

7 K.S.C., Ch71, Z1.

8 K.S.C., Ch71, Z1, Address to Catholics, etc, p3.

9 *ibid.*, A Memorial of Nine Hundred and Ten Priests, presented to both Houses of the Convocation of the Province of Canterbury, on Friday February 17th 1871, London, Knott, 1871.

10 cf title of Memorial.

11 J.Embry, The Catholic Movement and the Society of the Holy Cross, p38.

12 J.Purchas, Directorium Anglicanum; being a manual of directions for the right celebration of the Holy Communion [...] and for the Performance of other Rites and Ceremonies [...] according to the Ancient Uses of the Church of England, London, Masters, 1858.

13 Marsh, p126.

14 Roberts, p118.

15 The Times, 25 February 1871, p9d.

16 Roberts, p132.

17 The Globe, 27 February 1871. Note also Roberts, p131: the English Church Union narrowly (114 to 105 votes) decided against appending the following to a Memorial in support of Mackonochie on 13th December, 1870:

> We earnestly beg of you never again to appear as a spiritual person before the same Court, and we pledge ourselves to support you to the utmost of our ability in taking the consequences.

18 K.S.C., Ch.71, A3, SSC Minutes of Chapter and Synod 1870-1876, p7.

19 *ibid.*, p23

20 Embry, p91.

21 Reynolds, p179.

22 O.Wilde, The Picture of Dorian Gray, London, 1891, Chapter 1.

23 The Times, 12 May 1873, p10a.

24 K.S.C., Ch71, A3, SSC Minutes of Chapter and Synod 1870-1876, pp48 and 49.

25 Embry, p103.

26 R.D.Davidson and W.Benham, Life of Archibald Campbell Tait, Archbishop of Canterbury, Vol 2, Ch23 *passim*.

27 of the first in the series of Church Association tracts, W.F.Taylor, Must We Confess?, London, Ch.Ass., n.d.[1866].

28 The Times, 2 July 1873, p9e.

29 *ibid.*, 15 July 1873, p5a.

30 *ibid.*, 15 July 1873, p9d.

31 quoted in Reynolds, p178.

32 K.S.C., Ch71, A3, SSC Minutes of Chapter and Synod 1870-1876, p116.

33 The Times, 8 December 1873, p9c.

34 K.S.C., Ch71, A3, p145, cf also J.Baghot de la Bere (formerly Edwards), St Mary's, Prestbury; The Prosecution. A Statement relating thereto, set forth in a Letter to His Grace the Archbishop of Canterbury.

35 J.Wylde and G.Morley, The Saviour's Birth. A Nativity Play, London, Faith Press, 1925. He was also author of The Religious Training of Children, London, Rivingtons, 1881.

36 K.S.C., Ch71, A3, p148.

37 Embry, p48. Other examples of anti-Ritualist reporters getting it wrong included the following examples: in The Times 4 October 1872: Mr Gregory of St Michael's, Southampton is said to have been "arrayed in a surplice with a large cross worked on the back, and a

smaller cross within it." The same newspaper also alleges (4th December 1876) that Father Tooth of Hatcham saw to it that on Christmas morning "nearly all the acolytes wore the scarlet skull-cap of a Roman Catholic Cardinal." Tooth would appear to have been a versatile fellow, since the same report claims that "at the end of the Nicene Creed, the vicar removed his chasuble, *still retaining the biretta*, and then entered the pulpit"[my italics]. The Rock (2nd February, 1877) managed to mistake the SSC member, Dr Jenner, former Bishop of Dunedin, for Bishop Jackson of Rochester despite the fact that he was singing Pontifical High Mass at St Stephen's, Lewisham. I need hardly refer to the instances of "acolytes hanging from the Rood Screen", "lighted thurifers being carried in Procession" and even the clergy of St Alban's Holborn "practicing celibacy in the open street". *Plus ça change...*

38 G.I.T. Machin, Politics and the Churches in Great Britain 1869 to 1921, p78.39 For further details of the passing of the Bill, see Machin, p69-86 and Bentley, p46-79.

40 Marsh, p129f

41 Bentley, p47.

42 *ibid.*, p162.

43 *ibid.*, p163. But see also p169 for further details of Tait's proposals.

44 The Times, 19 March 1874, p10f; 24 March 1874, p10c&d; 30 March 1874, p12d.

45 *ibid.*, 19 March 1874, p10f.

46 H.Liddon, with J.O.Johnston and R.J.Wilson, Life of Edward Bouverie Pusey, Doctor of Divinity, Canon of Christ Church; Regius Professor of Hebrew in the University of Oxford, Vol IV, p274.

47 Eleanor Towle, with E.F.Russell (Ed), Alexander Heriot Mackonochie; A Memoir, pp222-226.

48 The Times, 19 March 1874, p9c.

49 *ibid.*, 30 March 1874, p12d.

50 Reynolds, p167.

51 The Times, 30 March 1874, p12d: Reynolds, p166 incorrectly gives the impression that this proposal occurred in the first of Pusey's letters to the Times (19 March 1874 p10f) rather than this one.

52 *ibid.*, 24 March 1874, p10c&d.

53 Marsh, p171.

54 *ibid.*, p172.

55 *ibid*., p174.

56 The Times, 28 April 1874, p9d.

57 The following paragraphs draw extensively on K.S.C. Ch71, A3, p165-169.

58 cf P.F.Anson, Bishops at Large, pp54, 75-84.

59 Note that from 1867-1869 he was Assistant Anglican Chaplain at St Andrew's, Pau: a pleasant respite from the inclement weather and equally inclement climate of opinion about Ritualism.

60 F.N.Oxenham, The Validity of Papal Claims, Five Lectures delivered in Rome, London, Longmans, 1897.

61 A.Wagner and A.Dale, The Wagners of Brighton, p104.

62 London, Longmans, 1893.

63 F.W.Puller, Ibali ngo Columba Ongcwele [...] Liguqulelwe eni Xhoseni, Capetown, Xaba, 1900.

64 cf anon., A History of the Free Church of England, Otherwise called The Reformed Episcopal Church. 2nd edn 1960. Free Church of England Publications Committee. This little-known body, which is still in existence at the time of writing (in 1980, it was reported to have 1,875 members, 39 ministers and 30 Churches - P.Brierley (Ed), UK Christian Handbook 1985/6 , London, MARC, 1984, pp111 and 136). Not to be confused with the Protestant Evangelical Church of England, a body the origins of which may be found in P.F.Anson, Bishops at Large, nor with the recent "continuing church" set up on protestant lines by the Rev'd David Samuel formerly of the Church Society, it was originally two separate bodies. The Free Church of England owed its origins to a minor dispute in Exeter Diocese in 1844, whilst the Reformed Episcopal Church sprang into being in the United States of America as a result of the anti-Ritualist fervour of the Rt Rev'd George David Cummins, Assistant Episcopalian Bishop of Kentucky. I quote part of his "Call to Organise", dated 13th November 1873:

The Lord has put it into the hearts of some of his servants who are, or have been, in the protestant Episcopal Church, the purpose of restoring the old paths of their fathers, and of returning to the use of the Prayer Book of 1785 [.....] The chief features of that Prayer Book, as distinguished from the one now in use, are the following: 1. The word "Priest" does not appear in the Book, and there is no countenance whatever to the errors of sacerdotalism. 2. The Baptismal Offices, the Confirmation Office, the Catechism and the Order for the Administration of the Lord's Supper, contain no sanction of the errors of Baptismal Regeneration, the Real Presence of the Body and Blood of Christ in the elements of the Communion, and of a Sacrifice offered by a Priest in that sacred feast.

Dr Cummins was excommunicated by the Protestant Episcopal Church, thus giving rise to the Reformed Episcopal Church. The two bodies were formally united on 14th June 1927.

65 "Continuing Churches" are those bodies of Anglicans which have separated from the Church of England following the General Synod decision of 11th November, 1992 to permit the ordination of women to the priesthood. The Anglican Catholic Church, an exclusively High Church body, traces its origins to a congregation from Stoke-on-Trent which left the Church of England *en masse* and accompanied by their Vicar, Leslie Hamlett (now the Bishop of the Missionary Diocese of England and Wales) at the time that the ordination of women deacons was first permitted. (Pickering, p210 incorrectly claims that Hamlett and his congregation became Roman Catholics). The Traditional Church of England is a body which although primarily Anglo-Catholic claims to welcome all shades of traditional Churchmanship; it was formed out of the Movement for a Continuing Church of England, and is so far reliant on episcopal oversight from America. There also exists a Continuing Church of England, again reliant on episcopal oversight from the United States, derived originally from the Philippine Independent Church; so far this body has three parishes in its Diocese of Lambeth. A fourth, and exclusively Low Church, "Continuing Church" also exists, under the leadership of Bishop David Samuel, who was recently consecrated under dramatic circumstances, the consecrating Bishop suffering a heart seizure during the ceremony and completing the consecration from his stretcher. I am indebted to Msgr Francis Glenn of the Catholic Episcopal Church and the Reverend Michael Mowbray Silver of the Traditional Anglican Church for information about the latter two Churches.

66 cf Pickering, p263, for Fr Keet of St Clement's, Cambridge his reaction when the Pope abolished the rule which required the fast from midnight prior to receiving the

Sacrament. Pickering is mistaken to attribute this incident to the abolition of the "rules over fasting on fridays" - he is also thinking of abstinence rather than fasting.

67 It is a curious thought to consider for a moment the futures of the practices mentioned by Lowder: the Eastward Position has been largely superseded by the celebration *versus populum* introduced in the wake of the Roman Catholic Second Council of the Vatican; Vestments have spread to Broad Church and now generally have no doctrinal significance; Lights are nearly universal in the Church of England; Banners are more associated with the Mothers' Union than with dangerous Romish practices; Processions mainly have fallen out of use and Evening Communion is celebrated not only by Anglo-Catholics but by the Pope of Rome himself.

68 Embry, p50-51.

69 The Times, 11 May 1874, p12a.

70 *ibid*., 12 May 1874, p11c.

71 *ibid*., 30 May 1874, p9c.

72 Marsh, p177, also Roundell Palmer, 1st Earl of Selborne, Memorials, Part II, London, 1898, Vol.I, p343.

73 The Times, 4 June 1874, p9b.

74 Marsh, p178.

75 The Times, 5 June 1874, p9a.

76 *ibid*., 9 June 1874, p11b.

77 Marsh, p179.

78 J.C.Macdonnell, The Life and Correspondence of William Connor Magee [...], Vol.II, p9.

79 The Times, 16 June 1874, p11b.

80 The Guardian, 1 July 1874, p8.

81 The Times, 26 June 1874, p9b.

82 Marsh, p181.

83 *ibid*., p181. But see Times on same day.

84 The Times, 9 July 1874, p11b.

85 Marsh, p184.

86 This Prelate lived to a venerable old age, finally departing this life in characteristic fashion. He fell through a wooden ornamental bridge whilst walking in the garden at Bishopscourt with his Chaplain. "At least we've frightened the frogs!" he remarked to his companion as they sat there up to their necks in pond-water. Sadly he still contracted pneumonia, from which he died.

87 A.Hughes, The Rivers of the Flood, p27.

88 *ibid.*.

89 It is worth quoting the account of this curious incident, which appeared in the Times, 10 July 1874, p7e:

> The Rt Hon gentleman was at this moment disturbed by a burst of laughter from the crowded House, caused by the appearance of a large grey tabby cat which, after descending the Opposition gangway, proceeded leisurely to cross the floor. Being frightened by the noise, the cat made a sudden spring from the floor over the shoulders of the members sitting on the front Ministerial bench below the gangway, and, amid shouts of laughter, bounded over the heads of members on the back benches until it reached a side door, when it vanished.

When silence was restored, Hardy resumed his speech with a witty if erudite reference to the incident at the 17th century Synod of Dort when proceedings were interrupted by the constant hooting of a troublesome owl. No doubt, had it not been dangerously Romish, he would also have alluded to the story of S.Dominic being interrupted during a sermon by the devil in the form of a persistently tweeting sparrow: the Saint's tactics on that occasion would not have been approved of by his animal-loving contemporary S.Francis...

90 The Times, 10 July 1874, p9a.

91 *ibid.*, 11 July 1874, p9a.

92 cf Pickering, pp148-156 on the ambiguities of the Anglo-Catholic attitude to Bishops, reflected in congregationalist behaviour:

> Bishops are necessary functionaries for their [Anglo-Catholic priests'] very existence, yet vows of obedience made to them may be ignored. Bishops were thus seen as functionaries - as impersonal machines making valid priests. All they did and said was of no consequence They were near to being a necessary thorn in the flesh. [...] The Anglo-Catholic outlook in this respect was far more individualistic than Congregational independency. The learned Gregory Dix said to someone worried about the Church of South India, "I really don't see why you should be surprised at the conduct of your Fathers

> in God. After all, the sign of a Bishop is a crook, and of an Archbishop a double-cross."

It is unclear whether Pickering had considered the example of Dr W.E.Orchard, a Congregationalist minister who used full Catholic ceremonial in his Chapel prior to his conversion to Roman Catholicism in the early 1930s. This gentleman was accustomed to wear the buckles from John Wesley's shoes on his Sanctuary Slippers. cf W.E.Orchard, From Faith to Faith, An Autobiography of Religious Development, London, Putnam, 1933, also W.Rowland Jones, Diary of a Misfit Priest, London, Allen and Unwin, 1960.

93 The Times, 14 July 1874, p9b.

94 *ibid*.

95 *ibid*., 13 July 1874, p11a.

96 *ibid*., 16 July 1874, p9b.

97 Marsh, p189.

98 The Times, 29 July 1874, p9b.

99 Ecclesiastes 10:19.

100 The Times, 20 July 1874, p11b.

101 This was, of course, back in the days when they still had some.

102 The Times, 30 July 1874, p9c.

103 *ibid*., 1 August 1874, p9c.

104 *contra* Marsh, p189.

105 *ibid*., p190.

106 The Times, 1 August 1874, p9b.

CHAPTER TWO: ASSIMILATING THE ACT 1874 - 1875

Christian, dost thou see them

On the holy ground,

How the troops of Midian

Prowl and prowl around?

Christian, up and smite them,

Counting gain but loss;

Smite them by the merit

Of the holy Cross.

-Hymns Ancient and Modern No 91

The Public Worship Regulation Act having passed on its tumultuous way through Parliament and gained the status of law, it remained for the Ritualist Movement, whose partisans had observed the hosts of Midian from afar, to take stock of the position. There was almost a complete year before the Act would come into force, but the process of assimilation was hardly taking place in a vacuum: the Church Association was engaged in bringing actions under the Church Discipline Act against Parnell, in Liverpool, Edwards in Prestbury and again Mackonochie himself was being attacked. Several things were apparent from the outset: the provisions made under the Act would be no more acceptable to Ritualists than the existing structure; indeed, it would be easier to attack as uncanonical and obviously secular. It was as yet less obvious quite how the new legislation would work in practice.

At the S.S.C. September Synod of 1874, the Act was touched upon obliquely by means of a debate on the question of Disestablishment. This was partly to fill in what would otherwise have been an awkward gap as Ritualists had not got their thoughts about the Act in order in the month or so since it had passed. But it was also a result of strongly held clerical views. Mackonochie, for one, together with other of his clergy from St Alban's, Holborn seems even to have gone to the extent of joining the Radical Edward Miall's predominantly Nonconformist pro-Disestablishment Liberation Society[1]. Others within the Movement

thought differently, as might be expected in an atmosphere where the prospect of Disestablishment had been used by the proponents of the Act as a bugbear to frighten those who opposed it into submission. Nihill's comments on the subject, quoted by Embry and incompletely by Reynolds, occurred at a later debate of the Society on the same subject, Reynolds in fact fails to notice the September 1874 debate at all, claiming that "The Society held a synodical debate on the subject in May 1876, and another a year later".[2] Yet Nihill's views illustrate the fact that extreme Ritualists did not necessarily wish for the dissolution of the adulterous union between Church and State, even if the new Act was to be administered by a former judge of the Divorce Court:

> The Rev H.D.Nihill[3], who was nothing if not pointed, said two or three things in connection with the discussion.[...] One was that if those who seemed so anxious to be rid of their "endowments" would send to him the proceeds thereof, he would relieve their consciences from the burden by devoting them to religious purposes unconnected with the Establishment. In answer to two favourite questions of the time, he replied, -"Our Lord, Who is not only the same to-day and for ever, but yesterday as well, *did* found an Established Church amongst His ancient people. When St Augustine came over to convert England, he went straight to the king, and used the world's power for God, and all the Monk missionaries were wise enough to do the same.[4]

As with the continued revision of the Society Statutes, this debate served to keep the threatened members occupied without doing harm to themselves or each other.

A further reason why it was inexpedient to discuss the Act was the awareness that at the forthcoming Church Congress at Brighton, there would be ample opportunity for the broader Ritualist Movement to discuss the subject. It was a felicitous chance that the 1874 Congress was to be held in the seaside town, through the influence of the great churchbuilder Arthur Douglas Wagner[5] becoming known as a kind of secondary capital of Ritualism behind London. It was also the home of Orby Shipley, whose conversion to Roman Catholicism in November 1878 was to cause such a stir, but who was at this point a leading light in the E.C.U.. The Union was, the chief mover behind the series of meetings which went on during the Congress (6th to 8th October, 1874)[6].

From these discussions, sprang a petition to Convocation, requesting that that assembly

> will maintain the integrity of the Book of Common Prayer as settled in 1662; and, further, that in any explanations which you may deem it needful to propose touching the rubrics of the said Book, provision may be made for the retention of such ornaments of the Church and of the ministers thereof as were prescribed by and used under the prayer Book of 1549, and which your Petitioners humbly represent are, in their judgement, lawful under the present Act of Uniformity.[7]

This Memorial was presented to the Upper House by Bishop Wordsworth of Lincoln (better known in less serious circles for his opposition to the Total Abstinence Pledge[8]), and to the Lower by Canon Gregory of St Paul's in April the following year (Roberts has a misprint at this point, claiming it was 1874[9]). It bore the signatures of 3,860 clergymen and 71,250 lay communicants.

As well as this impressive result, the meetings produced a series of resolutions directed towards the new Act. These were as follows:

> I. That it is contrary to the Constitution in Church and State that interference with, or regulation of, the formularies, worship and internal discipline of the Church, be made by the authority of Parliament alone.
> II. That, in violation of this principle, the Court and Method of Procedure established by the Public Worship Regulation act, have been established by the sole authority of Parliament, without consent of the Church, and against Resolutions of the Lower Houses of both Convocations.
> III. Whatever defects may have existed amongst us heretofore in respect of the Administration of Ecclesiastical Jurisdiction, these have been aggravated and intensified by the Public Worship Regulation Act.
> IV. That [...] we are unable to concede to the aforesaid Court the authority claimed for it in the regulation of the Worship of the Church, or that may be claimed for any Court that has not the sanction of the Sacred Synod of this Church and Realm, or to regard their decisions as in any way binding upon the consciences of Churchmen.[10]

So, from the very inception of the Act, we find a blanket denial throughout the Ritualist Movement that its provisions were binding *in foro conscientiae*. The references to Convocation show that Ritualists had seen through Tait's manoeuvrings with the Convocation of Canterbury at the end of April: although supporters of the Act could claim that its terms had been subject to the examination and advice of Convocation, the Ritualists were nearer to the spirit of the thing by pointing out that the Convocations had fundamentally opposed the passing of the Act.

The meetings of early October also produced general agreement on the "Six Points" of Ritual

which were not to be given up in the face of opposition. These were Wafer Bread, Incense, Altar Lights, Vestments, Comixture of Water and Wine. The overall feeling was that the meetings had been a successful experiment, and one to be repeated at future Congresses:

> The experiment was this - to take advantage of the meeting of the Church Congress for the holding of contemporaneous Conferences by the Catholic Party upon questions which vitally affect the Church.[11]

This experiment can be seen as a first, tentative step on the road which would lead to the great Anglo-Catholic Congresses of the 1920s.

Late the following month, Mackonochie was again in Court. Letters of Request had been granted to Martin by the Bishop of London on certain points upon which Mackonochie was alleged to have violated the law laid down by the Judicial Committee of the Privy Council. These were Altar Lights, Undue Elevation, Processions with Crucifix, the *Agnus Dei*, the Sign of the Cross, Kissing the Prayer Book, Wafer Bread, Vestments and the Oriental Position. The hearing began on 26th November and, although Sir Robert Phillimore "made it abundantly clear that he resented having to enforce the law as defined by the Privy Council"[12], he had no choice but to do so - despite even the nimble arguments of his son, who was acting as one of the Scotsman's counsel. Judgement was given on 7th December: Phillimore found that the charge of Elevation was unproven, that it was illegal to make the sign of the Cross in the air (presumably meaning "over the congregation" - it is not recorded whether any enterprising clergyman attempted to make the sign of the Cross in any other element), but that it was permitted to Cross oneself as an act of private devotion. On all other counts Mackonochie was found guilty. He was accordingly suspended *ab officio* for a period of six weeks. The state of confusion over ecclesiastical law at this time may be judged from two attendant circumstances: Mackonochie gave notice that he intended to appeal, as Reynolds notes, "in the belief that the appeal would not be heard by the Judicial Committee, but by the new Court of Appeal", whose lay composition gave a better hope for "an impartial administration of justice" even if it held no more compelling spiritual claim upon Ritualists than the previous arrangement. The other example of this confusion was mentioned by Roberts without comment:

> The Judge animadverted upon the fact that the proceedings were brought by a non-parishioner, who, in a few months' time, under the provisions of the P.W.R.Act, then to be in operation, would be, on the ground of his being a non-parishioner, disqualified to be a prosecutor.[13]

This was not at all the case: although the Public Worship Regulation Act had been intended to supersede the Church Discipline Act, the older piece of legislation had at no time been repealed and was still there for anyone to use, should the newer law prove unworkable...

The Lincolnshire Brethren of the S.S.C. debated the Act on 17th December 1874. A leading role was played in the discussions by the extremist, Thomas Mossman:

> Brother Mossman said that if Parliament acted without the consent of Convocation we should be in the position of many thousands of clergy of the Anglican school but if changes were made by Convocation and Parliament we should have a very small number who would be prepared to stand by Catholic usages, probably 500, perhaps not so many. [14]

Ultimately, however, he saw the situation as likely to present Ritualists with "only two courses [...] - forming a free Church or joining the Church of Rome." These rural Ritualists were also concerned with the rather more theoretical problem of whether they could, in conscience, obey a law affecting the Church which was purely parliamentary in origin and yet was in itself pleasing or at least acceptable to the Ritualist party. It was Mossman who brought this up by asserting that some clergy would refuse to obey even such a law:

> Brother Bacon said that the course which seemed to commend itself to him was this: if legislation took a Catholic direction (which was hardly likely) to avail ourselves of all the advantages afforded by it.

Another concern among these rural Ritualists was to decide on a course of action to be followed if Convocation passed legislation of an anti-Ritualist character. Noel Bacon was all for disregarding any such legislation, "regarding the Church as in a state of persecution and we ourselves striving to bring about a better state of things." This would seem to stand open to the charge of self-dramatisation and unreality; certainly, it illustrates one of the weaknesses which Pickering highlights - the problem of how to maintain a convincing "Catholic" identity within a body which is largely inimical to such an outlook:

> The problem *par excellence* for Anglo-Catholics is their claim to be Catholic within an institution which for several centuries has generally been reckoned to stand in the

> Protestant camp, certainly not in the Roman Catholic camp.[15]

This contradiction may be seen more clearly in Francis Holden's contribution to the Lincolnshire discussion:

> Brother Holden said that anything unrighteously done we must set ourselves against. [...] Convocation has been called upon under direct threats to satisfy the unbelieving feeling of the country, that unless it would do that work it has been called upon to do, Parliament would do it for it, in such a case it would be right on our part to withstand Convocation, but supposing Convocation to act spontaneously and to express not the mind of the country but its own mind, there could be no doubt that we are all bound to obey it unless it infringes upon Catholic faith and our commission as priests, then there would be no other course than to withdraw.[16]

For Holden, then, even the "purely ecclesiastical" authority of Convocation to which so many Ritualists were appealing at this time was only to be obeyed if it gave the answer which the Ritualists wished to hear. A similar attitude to episcopal authority has already been noted in the S.S.C.'s imposition of a restrictive definition of when a bishop was acting in his episcopal *persona*, rather than in his capacity as a state official, thus enabling them conscientiously to ignore most of what their Fathers in God were saying and doing. The Bishops of course recognised no such dual personality in themselves. It would appear that ultimately, the more extreme Ritualist clergymen were prepared to disobey any existing authority within their ecclesial body if this authority was unprepared to go along with their particular definition of Catholicism.

Nevertheless, there was a high degree of realism apparent in Mossman's understanding of the situation. Whilst he would no doubt have agreed that the Church of England was undergoing "persecution" at its own hands, he

> thought that probably [...] the Eastward position [would] be allowed and nothing else. That men in prominent parishes would be deprived and we in country villages not touched, then the consideration would arise how we should act when such brethren were driven out and we remaining in [*sic*].

In general, anti-Ritualists selected well-known clergymen and easily accessible churches for their attentions: Mackonochie was a case in point. All the clergy who were imprisoned for contempt of court relative to Ritual offences were in urban parishes. Those in rural and remote cures were more likely simply to be subject to the occasional local anti-Ritualist

agitation, than to have to bear any concerted attack.[17] The persecution of Bernard Walke of Saint Hilary in the depths of the Cornish countryside does not disprove this general: he came from a later generation and was well-known through his wireless broadcasts.[18]

Obviously the Lincolnshire S.S.C. was deeply opposed to the new Act: that there was also deep unease outside the hardcore of the Ritualist Movement was demonstrated in the following month, when the Times printed a series of letters on the subject. Most eloquent in setting out the objections felt by moderate High Churchmen to the Act was a letter from Dr George Trevor[19]: he called himself "an old fashioned Churchman" and disclaimed any liking for advanced Ritualism - for him, "there is no distinctive garment for the Holy Communion", but "the only rubrical position for the priest is 'before the table'". Indeed, one reason why he did not wish to see the new Act enforcing the Privy Council's condemnation of the Eastward position was that this would be "driving Anglicans into the same boat with Ritualists". But his attack on the Act was based on an apprehension that it would give rise to a "flood of litigation" and create an "army of informers". He was able also to highlight the effect of the legal wrangles surrounding Ritualism to date: Sir Robert Phillimore had publicly declared that the Purchas Judgement was inconsistent with that given in 1870 concerning Mackonochie and "the law is therefore undetermined"; equally no attempt to gain an authoritative condemnation of Ritualist doctrines (and the Ritual was surely offensive not in itself but because of the doctrines it implied) had been successful. He saw a particular weakness in the Act's provisions for episcopal discretion: it was arranged so that the Bishop was forced to allow a case to proceed unless there was a plain legal reason why it need not - "He can hardly refuse to find a Bill simply because he had rather not."

He also claimed that the Act would give rise to too much litigation, precisely because "It is an Act to enforce the Rubrics all round. Convocation is not going to alter them, and it would be strange if it did." This consideration was at least partly justified in that the year's discussion of the projected reform of the Rubrics by Convocation proved to be "somewhat abortive"[20], and the Lower House wished explicitly to allow the eastward position and vestments, or in the

rather more vivid words of the Times:

> They put aside every other consideration in order to assert a counter-authority to that of the Privy Council and to throw their shield over the innovations which have agitated the Church over the last ten years.

Unsurprisingly, in early July 1875 the Upper House of Convocation rejected these recommendations as unreasonable and impractical. The Rubrics were doomed to remain in their seventeenth-century obscurity and this was unlikely to assist with the smooth and fair working of the Act.

The controversy over Ritualism was not being fought out exclusively on the printed page: all the time, the war of attrition continued, affecting individuals and parishes. The S.S.C. February Chapter found itself discussing one particular episcopal attack on Ritualism, without going through the courts:

> Brother Church informed the Brethren that the Bishop of London had refused to licence him to the Curacy of Saint Mary Magdalene, Chiswick, unless he would consent to relinquish the use of lights and vestments, which had been in use there for 9 years and retain only the Eastward Position [...] he desired to know whether he ought to yield - he was supported by his Vicar and the congregation said they would not come if the Ritual was discontinued.[21]

The power of the Bishop legally to license or refuse to license curates and other non-beneficed clergymen was a useful weapon: equally, the Bishop could revoke a curate's licence at any time, in the event of his proving undesirably Ritualistic. Whilst such an arbitrary use of episcopal authority could not be used directly against Ritualist incumbents, it was being used to some effect indirectly, since it was possible thereby to isolate such incumbents without the necessary support of curates. At this very time, it was said of another S.S.C. member, the distinguished hymnwriter and composer John Bacchus Dykes of Saint Oswald's, Durham, that his "health had quite broken down"[22] because Bishop Charles Baring (of the well-known banking family) refused to license anyone as his Curate. His crime had been his refusal to abandon the use of coloured stoles and the Eastward position, and his death the following year allowed Ritualists to look on him as a martyr for the Faith. An extension of the tactic of refusing to license curates was to refuse ordination tout court to those suspected of Ritualist leanings: it was again Bishop Baring whose behaviour the Society

condemned in this respect, when in June of that year a junior member of the Society, one Edward Carver, was turned down in this way.[23]

The case involving Saint Mary Magdalene's, Chiswick had, when the Chapter discussed it, already given rise to a Petition to Bishop Jackson of London signed by seventy out of the seventy-eight regular communicants, but he had refused to receive the deputation which waited on him in order to present this Memorial. The S.S.C.Minutes throw some interesting light on the subject of the congregation: they would no longer attend that particular church if the Ritual was suppressed, Church stated, and this must be seen as an early example of one effect of Ritualism - the phenomenon of the gathered church. The congregation did not attend the particular place of worship, on the whole, because it was their parish church, but because it offered a style of worship which they found attractive; they were plainly prepared to travel to another place of worship if Saint Mary Magdalene's ceased to be satisfactory in that respect. This attitude was to be a prominent feature in Anglo-Catholic sociology, with devoted laymen travelling significant distances in order to attend the church of their choice: as many inner city areas have become depopulated, the phenomenon has, if anything become more significant.[24] Pickering, for instance, writes of Saint Alban's, Holborn in the 1980s that

> About a year ago it had an electoral roll (membership) of 60 and many people on the list came from miles away, as far as Sussex and the south coast.[25]

But for the year of 1875 and the Chiswick parish in question, the capacity of convinced Ritualists to travel in order to get what they wanted was hardly an unmixed blessing. Whilst it would mean that people were not lost to the movement, it would threaten the death of that particular parish, much as happened a few years later at Hatcham. There were other suggestions as to how Bishop Jackson could be opposed:

> Brother Shipley thought that the conduct of the Bishop ought to be made public; the conduct of the Bishop ought to be made public; the whole facts ought to be printed and circulated; it was only fair to the rest of the Diocese, and we ought to endeavour to prevent such scandals for the future. Bishops dread newspaper attacks, and we ought to be able to use this fear for the good of the Church.

Shipley's was fighting talk, but somewhat divorced from reality. He was an extreme, if intellectual, Ritualist, and did not seem to see the problem that the general public, before

whom he was proposing that the facts of the case be placed was more likely to applaud the Bishop for attacking the problem of Ritualism with a firm hand than to support the Ritualistic curate. Richard Bristow saw this (it is significant that Shipley was to become a Roman Catholic a couple of years later, whilst Bristow lived and died within the Church of England), and dissuaded the Chapter from publication, "at least until more was known" as to the facts.

All the time since the passing of the Public Worship Regulation Act, clergymen of the Ritualist school had been considering how to deal with this particular threat. These considerations had matured considerably since the Brighton meetings of the previous October. The Act was soon to come into force (1st July 1875) and so the S.S.C. again debated the matter. Its Synod met on 29th and 30th April, and the debate on the Act, "its authority and our duty" opened with a paper by Francis Murray, of Chislehurst in Kent[26]. He was very much concerned to present a "party line" and dealt with two aspects of the Act; its authority or lack of it, and the duty of clergy of the S.S.C. towards it. He was quite clear as to the first, and more theoretical, question:

> In considering the authority of the Act, a line may be taken that it is one enforced upon the Church by Act of Parliament alone, without any real consent, indeed against the protest of the Lower House of Convocation, and so that it is not binding upon the conscience of any Incumbent: and it may be considered that any Bishop acting upon its provisions is simply doing so to carry out a law of Parliament - acting as a *State Officer*, rather than in his *spiritual* capacity as Bishop.[27]

But, theory aside, he recognised that given the state of public opinion, a simple policy of not recognising the Act's validity was likely to result simply in clergy being deprived of their livings. An important question was the attitude which the Bishops would individually take. The role of the Bishop was a vital one, and Murray suggested that:

> It would seem that the best course is, in the first instance to endeavour to deal with the Bishop in the *spiritual capacity*, which as Churchmen we must regard him as fulfilling, and to which, irrespective of the Act we may appeal.

This of course relied upon the Bishop's cooperation with such an attempt to sidestep the provisions of the Act. Murray was at least sanguine that they would "be disposed to carry out the Act fairly and considerately," and highlighted the possible value of the episcopal veto

enshrined in the Act as it was passed.

> The great power of absolute veto upon cases will rest with them; a power of veto which Lord Cairns in Parliament characterised as "one which was not claimed [...] by any court or judge in any country in which a temporal law was administered," but which *is* allowed them. [...] I think the *most should be made of this* great power of arbitration and conciliation.

This advantage was to be taken, he suggested, by seeking to preempt anti-Ritualists: it was not after all difficult for an incumbent to identify members of a congregation who were paid informants of the Church Association[28] and a swift trip to speak to the Bishop might influence him to use his veto on any case which might subsequently be brought.

He claimed that the number of complaints which were likely to be made was so great as to be a severe nuisance to the Bishops, especially given the stipulation that a Bishop exercising his veto would have to give a written summary of why he was doing so:

> I believe that for some time the Bishops will be great sufferers in the way in which they will be pestered with trivial cases, which they will think should not go forward, and yet with regard to which they will find it hard to satisfy the objection of the Protestant world without, running its head in grievous ignorance against Catholic truth and practice.

He was unable to offer any convincing answer. Assuming that the Bishop would not use his power of veto, the next question was whether the threatened Ritualist clergyman should consent to submit to the process of binding arbitration before the Bishop, which the Act envisaged. Such arbitration was a different matter entirely from the informal and spiritual involvement of the Bishop for which he hoped, and was getting dangerously near to recognition of the Act's provisions:

> Should we agree to this arbitration? I hardly see how we can decline to do so, though it is a *very serious matter*, and would be specially so in some dioceses; and great difficulties may arise - serious cases of conscience.

The situation was rendered more difficult by the fact that a Bishop who refused to cooperate with a threatened Ritualist clergyman by vetoing a case at the start was presumably less likely to produce a judgement favourable to Ritualists through the formal process of arbitration. Besides, there was to be no appeal from such a decision, so a clergyman submitting to this arbitration was effectively without redress should the game of chance go wrong.

Beyond such arbitration there was of course the actual Court set up under the Act. Murray was quite clear on this matter. Besides the consideration that Penzance, the new Judge, had formerly been a Judge in the Divorce Court, there were all the familiar Ritualist objections to the Court:

> *I do not see that we can*, as Priests, submit to plead before a Court which is constituted simply by an Act of Parliament, which has swept away all the Diocesan Courts, and the jurisdiction of the Bishop in them:- how can we consent to appeal before a Court so constituted, which has no ecclesiastical sanction in character, which is simply formed to enforce an obnoxious statute, and to make easy means of procedure against Priests?
> It may be said [...] "This is *only making easy* instead of costly means of procedure," but it is a new means, which will interfere with and will lay down the law upon the formularies, worship and internal discipline of the Church of CHRIST.
> Can this be admitted as rightful? Can pleading be consented to before it?
> Can its decisions be regarded as binding upon the conscience of Churchmen?
> I think we must answer emphatically in the negative.

Ultimately, he saw no answer except to submit to the sufferings of deprivation for the sake of the Faith and the "eventual promotion of truth". He did not, however, consider that clergy attacked under the legislation might be called upon to serve time in prison because of the Act: no one at this point had thought of this possibility.

In the resultant debate, Charles Dashwood Goldie, of Saint Ives in Cambridgeshire and one of the Society's older members, expressed the hope that at least some Bishops would prove to be "kindly disposed towards us"[29], and accordingly proposed the following motion:

> That the members of the S.S.C., with any others with whom they may think to unite, should at once approach the Bishops of their Diocese & confer with them, showing their difficulties & their determination to stand by the Church Law - & report the result of such conference to the Society. That a Committee be formed to consider under what circumstances, or if any, any concession whatever can be made to the demands of the Bishop as acting under this law.

This resolution however proved unpopular with the Synod and was lost. From the subsequent debate, it is obvious that the assembled clergy were not in the mood to be talking of concessions. Thomas Pelham Dale regretted this refusal to concede anything, for the sake of the more isolated Ritualists in the country. He spoke from experience, for although he had been Rector of the city church of S.Vedast's, Foster Lane since 1847, this depopulated parish

had allowed him much leisure to help out in country parishes, where Ritualists were more likely to "be picked off one by one".

However, more representative of the Society's feelings were the views advanced by William James Early Bennett of Frome:

> Br Bennett protested against any <u>concession</u> being made. He would concede none of the points decided upon at Brighton. Priests must put before their people that they cannot give up the principles of the Church at the will of Parliament.

Goldie's advocacy of Murray's suggestion about preempting attacks by speaking first to the Bishop received further criticism from Ernest Dugmore of Poole in Dorset, who pointed out that realistically, the Bishops "would not like their clergy to go to them & tell them what they do -they would rather not know too much." Such an attitude was indeed evident among the Bishops as Ritualism developed in the following decades: one might cite particularly Arthur Foley Winnington-Ingram, whose *laissez-faire* attitude during his thirty-eight year tenure as Bishop of London served to confirm that diocese as the capital of Anglo-Catholicism in this country. One might also draw certain comparisons with the more recent past and the attitude of the Bishops towards the practice of homosexuality among their clergy: rather than face the issue head on, often the subject has had a blind eye turned on it until the Bishop in question found that embarassing publicity forced him to deal with it.

Following the loss of Goldie's motion, and in reaction to the obvious majority opinion among the Brethren, Pixell (now moved from the barren wastes of Cumbria to a Ritualist slum parish in Wolverhampton, and shortly to move to the infinitely more desirable rural Somerset village of Frampton Cotterell) proposed another, to the effect that

> when a Priest finds that a Bishop is proceeding under the P.W.Act [*sic*]; this Synod advises - that the Priest should respectfully inform the Bishop that he is unable to recognise his jurisdiction in so far as he is acting under the provisions of the said Act.

This was carried almost unanimously with thirty-five of the Brethren voting for it, and only one against.

There followed considerable further discussion of how in practice to treat the Bishop in such a case. Nihill took a particularly gloomy view of matters. "Here we are in May and we have arrived at no definite policy": he feared that the six points decided upon at Brighton were likely to go by the board in individual cases. Augustus de Romestin, at that point Vicar of Freeland, near Oxford, but previously Anglican Chaplain at various fashionable German resorts[30], agreed with such fears, pointing out that each case would be slightly different and there was a great danger of disunity of action. The fact was that everyone had a slightly different idea of what could or should be done with regard to the diocesan Bishop and threatened prosecutions. There was also a perceptive if apparently overly hopeful contribution from Charles Parnell, a former Plymouth Curate of George Rundle Prynne and now in Toxteth Park, Liverpool:

> V.Br Parnell did not think that much action will be taken after July - that the old Church Discipline Act is really simpler than the new Act.

This was far from obvious at the time, and on the eve of the Act coming into force, Ritualists were resolutely opposed to any recognition of the so-called new court. They were, however, still dangerously disorganised as to how to deal with actual cases brought under the new Act.

Meanwhile, one at least of these individual cases was advancing significantly: Mackonochie, finding that his appeal was to be heard before the old Judicial Committee rather than the new Final Court of Appeal withdrew the appeal on 21st May. The Court of Arches therefore ordered that the suspension which had been decreed against him the previous year could take effect from 13th June[31]. In his absence, Arthur Stanton was in charge at Saint Alban's, Holborn and found Bishop Jackson was attempting to obstruct his continuation of services as before:

> On Sunday, the 27th, Mattins was said as usual. At the end of the office, Mr.Stanton mounted the pulpit, and announced that the absent Vicar thoroughly approved of the course which he had taken. He spoke very gently of the Bishop of London, who felt himself bound to regulate the service according to the Purchas Judgement. The clergy, on the other hand, felt that it would be irreverent in them, believing as they did in the Eucharistic Presence, to celebrate the Sacred Mysteries with the maimed rites which the Judicial Committee enjoined, and he believed that the whole congregation felt as they felt. "Would any of you," he exclaimed, pointing to his surplice, "have me stand at the Altar in such a vestment as *this*?"[32]

He then led the congregation from the Church, across Holborn Viaduct and to Saint Vedast's Church, Foster Lane, where Father Dale was happy to allow a High Celebration with all the illegal ceremonial. What could constitute a more vivid illustration of the fighting spirit abroad amongst the rank and file of the Ritualist Movement on the very eve of the Act's coming into force?

NOTES ON CHAPTER TWO

1 Reynolds, p207.

2 *ibid.*, p210. The words Reynolds quotes are, it is to be noticed, Embry's, rather than Nihill's.

3 Reynolds (p210) inverts the order of Nihill's initials; he was definitely Henry Daniel Nihill.

4 Embry, p55.

5 It is of this clergyman that the story is told that his father, aghast at the large amounts of family money which his son (and curate) was spending on the building of new churches in the town, took as his text Matthew 17:15 "Lord, have mercy on my son: for he is lunatick and sore vexed". (Wagner and Dale, p105). It was in a later generation, I believe, that the similar story is told of another Brighton Church in which, of the three clergy, the Vicar and the younger Curate decided to convert to Roman Catholicism, whilst the less popular senior Curate stayed faithful to his Anglican roots: the Vicar's final sermon was on the text Genesis 22:5 "Abide ye here with the ass; and I and the lad will go yonder and worship." It is further said of Wagner that in his extreme old age he became a trifle confused and died happy in the thought that his long efforts to convert Brighton to Anglo-Catholicism had paid off with the erection by public subscription of a statue, on the seafront, of Our Lady. He must have been shortsighted as well as gaga: it was actually a likeness of Queen Victoria, and commemorated the Diamond Jubilee of that most Protestant of monarchs.

6 Some Account of the Consultative Meetings of Priests of the Catholic Party in the Church of England held during Congress Week in Brighton on the 6th 7th and 8th of October 1874. Privately printed for the Committee of Organisation 1875. [In K.S.C., Ch71, S.S.C. Volume of Printed Tracts, Z1].

7 Quoted in Roberts, p166.

8 cf Andrew Barrow, The Flesh is Weak. An Intimate History of the Church of England, p162:

> That autumn [1873], the Bishop of Lincoln, Dr Wordsworth, preached a sermon in which he protested that the Total Abstinence Pledge was often forced on young children, who subsequently broke it. This sermon produced a hail of angry sermons and pamphlets and shortly afterwards Dr Frederick

> Lees, teetotaller campaigner, arrived in Lincoln and denounced the Bishop from the platform of the Corn Exchange. Words from the offending sermon were later taken out of context and found hanging in beer-shops and pubs.

The previous year, Bishop Magee of Peterborough also put his foot in it over this issue by attacking the Intoxicating Liquors Bill in the following strong terms:

> I declare, strange as such declaration may sound coming from one of my profession that - it would be better that England should be free than that England should be compulsorily sober.

Magee was again to annoy teetotallers in December 1879, by vetoing a proposal by the Church of England Temperance Society for a day of humiliation and prayer against drunkenness.

9 Roberts, p167.

10 Some Account, etc [K.S.C., Ch71, Z1], p11.

11 *ibid.*, p17.

12 Reynolds, p185.

13 Roberts, p169-170.

14 K.S.C., Ch71, A53, Minutes of the Chapters of the Lincolnshire Branch of the SSC, 1872-1878., p43.

15 Pickering, p141-2.

16 K.S.C., Ch71, A53, p44-5.

17 c.f. D.A.Gunn-Johnson, A Country Catholic: A Study of the Emergence of the Oxford Movement in an East Devon Parish: Mamerto Gueritz (1823-1912), Vicar of Colyton 1860 to 1901, unpublished Abp of Canterbury M.A. thesis, 1994; also Piers Brendon, Hawker of Morwenstow, London, Secker and Warburg, 1975.

18 cf Michael Yelton, Anglican Papalism and the Rejection of the Revised Prayer Books of 1927/8, unpublished Perowne prize essay, 1970.

19 The Times, 13 January 1875, p4f.

20 *ibid.*, 8 July 1875, p9d.

21 K.S.C., Ch71, A3, p205.

22 *ibid.*, p211 (April 1875).

23 *ibid.*, p234.

24 One might draw a comparison with present day "Continuing Anglicans" or, in the Roman Catholic Church, the followers of the Society of Saint Pius X and Archbishop Lefebvre. The present author recalls travelling from Durham to Preston (a journey of about three hours) in order to see one of the four Bishops of the Society singing Mass.

25 Pickering, p253.

26 F.H.Murray, S.S.C. The Public Worship Regulation Act. A Paper., London, Knott, n.d.(1875), in K.S.C., Ch71, Z1.

27 *ibid.*, p2.

28 One might quote from Dom Anselm Hughes, The Rivers of the Flood, p29-30. Dom Anselm is writing of an encounter between some anti-Ritualist spies and Father Noel of S.Barnabas' Church, Oxford:

> Noel was conducting the children's Mass on some high festival, and during the offertory made his customary address to them in catechetical fashion, after this manner:
> *Father Noel*. Now, children, you know this is a very great feast, don't you?
> *Children.* Yes, Father.
> *F.N.* And you know that it is very wrong to look round in church, don't you?
> *Ch.* Yes, Father.
> *F.N.* Then as it is a very great feast, would you like to have a special treat?
> *Ch.* Oh yes, Father.
> *F.N*. Very well, for a special treat, you may all turn round and look. (*Children do so.*) Now tell me what you can see at the back of the Church.
> *Ch.* Three men, Father.
> *F.N*. Yes. and what are they doing?
> *Ch.* They're writing in little books, Father.
> *F.N.* Yes, and do you know what they are writing in those little books, children?
> *Ch.* No, Father.
> *F.N.* They are writing all sorts of dreadful things about your poor old vicar, and they are going to try to get him sent to prison. (*Sensation.*) Now aren't those three men very wicked men, children?
> *Ch. (enthusiastically)*. Yes, Father.
> *F.N.* Now what shall we do about those three very wicked men? (*uneasy silence; there is no shortage of ideas floating about, but none of them seem suitable to suggest loud up*). Shall I tell you what we will do about those three very wicked men, children?
> *Ch. (eagerly)*. Yes, Father.
> *F.N.* Now we will kneel down, and we will all say a Hail Mary for those three very wicked men. ALL KNEEL.

29 K.S.C., Ch71, A3, p219.

30 Although Embry (p412) calls de Romestin a Patristics scholar, and de Romestin did

write "How Knoweth this Man Letters?" An Enquiry into the Belief of the Church from the Beginning till now as to the limitation of our Lord's knowledge, London, Parker, 1891, his interests also extended to subjects as obscure as the German education system and he was the author of The Conscience Clause and Compulsory Education. A Sketch of the System of Primary Education in Germany, London, Ridgway, 1867. The Rev'd Augustus Henry Eugene de Romestin had ample opportunity to observe this subject, as Anglican Chaplain first at Freiburg 1863-1865 and then at Baden Baden 1865-1867.

31 Reynolds, p186. But note that he incorrectly dates this to 15th June.

32 Rt Hon. G.W.E.Russell, Saint Alban the Martyr, Holborn. A History of Fifty Years, p144.

CHAPTER THREE: THE FIRST CASES BROUGHT UNDER THE NEW ACT 1875 - 1877

And we, shall we be faithless?

Shall hearts fail, hands hang down?

Shall we evade the conflict,

And cast away our crown?

Not so: in God's deep counsels

Some better thing is stored;

We will maintain, unflinching,

One Church, one Faith, one Lord.

-Hymns Ancient and Modern No 604.

When the Act came into force on 1st July, 1875, attention was still on Saint Alban's, Holborn, a case with no direct connection to the new anti-Ritualist weapon. Two days later, Bishop Jackson formally prohibited Stanton and the other curates of that Church from officiating at any Church in the diocese where the illegal ornaments might be seen: the Ritualist congregation merely continued to attend such places of worship, as well as sending a vocal and surprisingly eloquent deputation to speak to Tait on the subject. Mackonochie's suspension ceased on 24th July, and on Sunday 8th August the Holy Communion was resumed. It was not quite "business as normal", since the form of service was the *Missa Cantata* rather than the High Mass (this did not return until 1884), but this Ritualist bastion certainly remained both contemptuous of and in contempt of the Purchas Judgement.

Meanwhile, the opponents of the Ritual did not waste much time before putting the Act to the test. There was some surprise that only one case was brought immediately[1], and Marsh suggests that this was partly to do with distrust among anti-Ritualists of the episcopal veto enshrined in the Act. It was, then, on 14th July that a complaint was made by three parishioners under the new Act against Charles Joseph Ridsdale, Perpetual Curate of Saint Peter's Church, Folkestone.

Ridsdale, who was to remain at Saint Peter's until 1923, making an incumbency of 55 years in all, was a graduate of Gonville and Caius College, Cambridge and a *protegé* of the Ritualist Vicar of Folkestone, Matthew Woodward (died 1898). The complaints made against him under the Act were merely a continuation of the anti-Ritualist activity which had started before Ridsdale's arrival, when, in 1862, Woodward had introduced the advanced Ritualist Hymns Ancient and Modern[2] at the Parish Church. They were also cruelly timed, since Ridsdale was away on honeymoon, having married Woodward's eldest daughter.[3]

The progress of this case was not entirely encouraging to Ritualists. Ridsdale refused to accept Tait's arbitration, considering quite rightly that he was unlikely to diverge from the judgements of the Privy Council in any of the twelve charges brought against him. But he then consented to appear before Lord Penzance, claiming in self justification that he recognised the Court only as a valid civil body, refusing to recognise its spiritual jurisdiction. In a letter to Tait, indeed, he stated that, in appearing before the Court, he desired:

> not to be misunderstood as recognising any spiritual character in the Court, but only a civil jurisdiction, capable, indeed, of commanding compliance under pains and penalties, but not of interpreting the law of the Church, so as to bind the consciences of Churchmen.[4]

The E.C.U., which had of course been following the progress of the anti-Ritualist onslaught throughout, lent its support, even paying his costs, but the S.S.C. opposed any contact whatsoever with the pretended Court. Ridsdale's stance was not unpromising from Tait's point of view.

The case was heard before Lord Penzance on 4th, 5th and 6th January, 1876.

There were twelve charges, but having learned that Lord Penzance would not set aside the Purchas Judgement, only three points were defended - viz., (1) Celebration with only one communicant; (2) Crucifix upon the chancel screen; (3) the Stations of the Cross.[5] The defence on the other points was reserved for the Final Court of Appeal. The Court pronounced for the complainants, with costs. Mr Ridsdale, after consultation with his lawyers, resolved to submit to the judgement of Lord Penzance, except as regards four points, upon which he determined to appeal - viz., (1) Eastward position; (2) vestments; (3) wafers; (4) mixed Chalice.[6]

By submitting to any of Penzance's decisions, he appeared to be compromising himself further in the eyes of the advanced school of thought represented by the active members of the Society. Equally perturbing was his decision, pending the hearing of the appeal to suspend all services in his Church, the congregation receiving the hospitality of another of Woodward's curates, Father Husband at Saint Michael's, in the meantime.

Penzance's judgement was given at Lambeth Palace on 3rd February 1876, and received a mixed reaction in the Times the next day[7]. It was considered displeasing to public opinion that the new judge should have gone even so far as to recognise the fact that differing opinions as to the legality of the Eastward Position had been held by his predecessors:

> It will be felt to be highly unsatisfactory that the law as declared by the highest Court should be thus perplexing even to the Judge of the Court below, and it is to be hoped the dispute will be settled once and for all on the ensuing appeal.

Rather more excitement that day was attatched to an anonymous letter to Cardinal Manning asking for the "admission to the Church of Rome for some body or other of Anglican clergy". One might be tempted to discern Mossman's hand in this, but given that the author of the letter "asks is to be allowed to say his prayers in English instead of Latin, and not to be ignominiously reordained", this might seem less likely than to ascribe this to his fellow extremist and monastic enthusiast George Nugée. This early precursor of an idea which has several times resurfaced among extreme Anglo-Catholics but which has never been wholeheartedly accepted by the Catholic Church in this country[8], was opposed by virtually every section of the Church of England. Needless to say, the Times dismissed it as a set of "dreams [...] which would not be entertained by any considerable number of men even among the Ritualistic clergy". The same newspaper also carried that day a "disclaimer of complicity"[9] from Mackonochie and about a hundred other clergymen. These rejected out of hand any idea of a "Uniat Church in subordination to the Papacy [...] until the Vatican decrees have been retracted and repealed with as much formality as they have been promulgated."

The attention given to this rather more sensational piece of ecclesiastical intelligence in

comparison with the first judgement under the new Act represents perhaps a realisation that the real Ridsdale Judgement was yet to come. Already, too the mechanism of the Act had been set to work on a second case, that of Arthur Tooth of Saint James', Hatcham in South London.

Tooth, a graduate of Trinity College, Cambridge, who had previously ministered under Woodward at Folkestone and at S.Mary Magdalene's, Chiswick, received notice of a complaint against him by three putative parishioners (one Wesleyan Methodist, one absentee and one churchwarden of nearby All Saints' Church) in December 1875. Tooth was of a very different disposition from Ridsdale and soon made it perfectly clear that he was not going to have any dealings with the structures set up by the new Act. Joyce Coombs[10] provides the text of a correspondence between Tooth and his Bishop, then Thomas Legh (*sic*) Claughton, from March 1876:

> Your lordship addresses me under the Public Worship Regulation Act, an authority I know nothing of and cannot acknowledge, and I need not remind your lordship that it is an Act which has never been accepted by the Church, that it was hurriedly passed - unhappily by the influence of the Bishops on a mixed Parliament of every possible religion or of no religion - and wholly in disregard of a resolution of the Lower House of the Convocation of Canterbury and of York.[11]

Or, more succinctly: "I do not propose to defend myself nor to obey when condemned."

The very obvious difference of approach between Ridsdale and Tooth was a matter of some embarassment to Ritualists: they appeared to the outside world like sheep without a shepherd, each rushing off in his chosen direction, rather than staying with the rest of the flock. The President of the E.C.U. addressed the problem of apparent inconsistency in a statement to the Ordinary Meeting of the Union on 6th April:

> Mr Ridsdale expresses our desire to do all that in us lies, as loyal subjects of the Crown, to avoid a collision with the civil courts, and to obtain peace for the Church; Mr Tooth our determination in purely spiritual matters, if the question is forced upon us, to recognise no authority or power except that which is exercised according to the provisions made by Our Lord Jesus Christ for the government of His Church on earth. We go with Mr Ridsdale before the courts, not to ascertain the law of the Church, but to defend it. And with Mr Tooth we shall be, please God, prepared, if need be, to suffer for it.[12]

It would seem unlikely that many of the leading lights of the S.S.C. would be persuaded by Wood's rhetoric: for them, Ridsdale was clearly dangerously near compromise and Tooth was taking the brave and the Catholic course.

The Society's May Synod met on 4th and 5th May, 1876. As well as the natural discussion of the difficulties the Movement was undergoing at the hands of the new Act, the Synod also saw a change in the Statutes and therefore the presidency of the Society. Mackonochie, already feeling the strain of overwork and persecution, gave up the Mastership immediately and, Lowder having refused to accept his election, the choice fell on Francis Lloyd Bagshawe, a contemporary of Tooth's from his Trinity days and his successor as Curate of S.Mary-the-Less, Lambeth. Then Vicar of S.Barnabas', Pimlico, Bagshawe was:

> a priest held in high esteem, no less for his personal devotion, sound catholicism and largeheartedness, than by the association of his church environment. As will be seen later, the time of his Mastership was destined to be contemporary with the period of greatest difficulty, odium and trial through which the Society has ever passed.[13]

Embry, as elsewhere, was a little optimistic in his assessment of the situation: Bagshawe was a moderate man, inclining to compromise, and was shortly literally to part company with the Society, just as his point of view had already parted company from that of the majority of his Brethren.

More directly relevant was the long debate on the second day of the Synod on the motion that "any inhibition or deprivation issuing from the PWR Court [...] is canonically null and void; and that it may be the duty of any Priest thus inhibited or deprived to remain in his parish & to minister, as far as circumstances permit, to the wants and necessities of his flock."[14]

Again, the discussion dealt with both theoretical and practical sides to the problem. Charles Pixell moved the first part of the motion, deprecating as he did so the "indefinite line adopted by the church papers" such as the Church Times and expressing the hope that, "if we do not give way, the Bishops will give way."

Although describing himself as the "first victim under the P.W.R.Act", the first to speak was in fact the third. This was Thomas Pelham Dale of S.Vedast's, who had recently played host to Stanton and the congregation of S.Alban's, Holborn. He had at this stage only received notice of the required complaint from three parishioners:

> A city church, he remarked, could be open or closed without much difficulty, but still the principle is the same, & to be true to one's principles one must go on to extremities, which mean the spoiling of one's goods. The Complainants, in his case, are not Church goers - when the Bishop sent for him he told him this, also that he could not plead in the P.W.R. Court, although, as far as he could, he would obey him as Bishop. He has been served with a notice. We are all, he said, in the same boat, & we must all face the matter & consider how best to turn it to the greatest advantage of the Church - for his part he is prepared to sacrifice his benefice and his income & he trusted that all of us would be ready to do the same. The Bishops, he thought, wished by the P.W.Act to establish the Purchas Judgement which they dare not reargue. Our only plan is to stand out boldly against it.

Ridsdale too claimed that he was prepared "to suffer if we are right in so doing", but was concerned to put as charitable as possible an interpretation on the comportment of the episcopate:

> With regard to the action of the bishops we must suppose that their motives are good in themselves, although they seem to be onesided & unjust. If the Bishops act in accordance with the P.W.R.Bill, they do so as the servants of the State & for the good of the Church.

He was, in effect, extending the already difficult distinction between a Bishop acting as a state official under the Act and one acting in his spiritual capacity, not under the Act: if it was the case that sometimes even under the Act a Bishop could be acting "for the good of the Church", it is difficult to see quite how a Ritualist clergyman was to distinguish this.

In all, nineteen clergymen spoke on the first part of the motion. There was an emphatic desire for united action and determined non-recognition of the Act. De Romestin asserted that deprivation under the Act was most definitely uncanonical:

> An Incumbent has rights as well as the Bishop - He is quite as much a member of the English Hierarchy as the Bishops - Canon Law does not mean Act of parliament - A Bishop's action under Act of parliament is null & void.

Similarly, Charles Lowder connected the struggle against the Act with adherence to Church

Law - in his case it was the claim that the oath taken at Ordination bound the conscientious clergyman to "resist any attempt on the part of the State to legislate for the Church." He hoped that through the concerted resistance shown to the Act, the society would be able to make the Bishops "come to us as our Spiritual Fathers & [...] suggest ways by which Public Worship difficulties may be overcome". Above all, he encouraged the Brethren to "stand upon our rights as Priests & leave the consequences in the hands of Almighty God."

Perhaps the most impressive contribution, however, was that of Thomas Outram Marshall, graduate of New College, Oxford and former curate of W.J.E.Bennett, since 1872 Curate of S.Mary Magdalene's, Paddington, and more significantly Organising Secretary of the English Church Union. His was a clear analysis of the situation to date, pointing the way forward:

> Br Marshall referred to the lines taken by Br Tooth & the late Mr Purchas. Our whole action must depend upon our mind on the subject. If the new court has no right to bind us in the matter of Celebration, it has no right to release us from celebrating as usual. He said that 4 courses have been taken: (1) when asked by the Bishop to give up certain points of Ritual "as the Law of the Church" to obey when the words "as the Law of the Church" were withdrawn- (2) to refuse the Bishop in the hope of better things from the Court & when failing in this to obey the Court. (3) To yield to the Court in the matter of one's own ministration & refuse to celebrate at all - & (4) to yield to no one. He thought that the cases before the Courts & the Books written on the subject teach the people. He approved of the attempt once for all to get the Purchas Judgement reversed - we must ask ourselves whether we mean to alter our mode of, or discontinue our Celebrations on the arrival of a monition.

Such plain speaking was necessary at this juncture. Edward Urquhart, Vicar of King's Sutton, Peterborough, was equally to the point: as well as approving of Dale's (and by implication, Tooth's) stand, he saw the seriousness of the situation for Ritualists so far as the status of the Church of England was concerned. His comments were redolent of the feelings of the extreme opponents of the late 20th century issue of the ordination of women, after the vote in November 1992[15]:

> Our chief difficulty with the Bishops is their inability to address us as our Spiritual Fathers & as State Officers at the same time. For the first time in the History of the Catholic Church Bishops have abdicated their episcopal position - they have become simply officers of a society which need not be Christian. The Church of England is, he thought, in a most critical position.

There were also two practical points. Charles Goldie questioned whether all Bishops were equally solid in their support of the Act:

> He reminded the Synod that the Bishops of Salisbury and Ely do not approach their clergy under the P.W.R.Act, & that the former [Moberly] not only refused to vote in favour of the Act but did not sign the recent episcopal manifesto.

Then there was the possibility that a clergyman could escape from the possible financial penalties of the Act by settling his property on another. This was the suggestion of Joseph Newton Smith, a founding member and first secretary of the Society, now a Perpetual Curate in Stratford-upon-Avon. Several other Brethren spoke about this, making it clear that this had to be a pre-emptive move, since as Burridge pointed out, "no one, who is under any engagement or liability, can settle their money upon others." Bagshawe wished for there to be further investigation of the question, since it had proved effective in Purchas' case. Eventually, F.H.Murray produced a motion which was passed by the Brethren to the effect

> That the Master be requested to ask the English Church Union to obtain a formal legal opinion under what circumstances & in what way any Priest may dispose of his property so as to avoid its being absorbed by any proceeding under the P.W.R.Act.

The first half of the motion was then carried unanimously. There was less unanimity on the second section - that concerning the duties of a clergyman who has become subject to inhibition or deprivation under the Act. Here, the debate became rather too bound up with arguments over the precise wording of the motion. Pixell's original wording was that "it may be" the duty of a clergyman to ignore any sentence of deprivation, inhibition and suspension passed against him under the Act: he said that these words had been left there at the request of the Birmingham Branch of the Society. Other Brethren, including Horsley, who urged "a very definite line & take no notice of anyone except the Policeman", felt that "it may be" was far too vague and wishy-washy:

> Br Mackonochie objected to the words "may be" in the motion - it is not a matter of expediency but of duty; the Priest has nothing to do with the P.W.R.Act - His jurisdiction is from God, & it is his duty to remain in his parish - when turned out of his Church his duty is still the same, therefore we want the word "is" and not "may be" - you might think it your duty to resign; but as an abstract fact God gives the charge of souls & only God can take it away.
> Br Mackonochie Moved the Amendment - "That the words 'may be' be left out in order to insert the words 'is ordinarily'".

Newton Smith, more cautiously proposed a typical Anglican compromise - that instead of "it may be the duty of" the motion should read "it is lawful & may be a duty for." It is difficult to

see quite what he was attempting to do to the motion. Frederick Ball objected to the words "it is lawful", maintaining that "we should remain at our posts until the State removes us."

When the three different versions of the motion were eventually voted upon, the mood of the Synod could be clearly seen: both Pixell's original and Newton Smith's rather pointless amendment were defeated by large majorities, and Mackonochie's more resolute version carried by an equally large number. Despite the subsequent reluctance of the S.S.C. to allow this motion to be published "as from a body of clergy meeting in London" (Pixell's idea), the Synod debate was an overwhelmingly encouraging experience for those engaged in the defence of the Ritualist Movement.

Later in May 1876, there were other legal developments in current anti-Ritualist prosecutions: the case against John Edwards of Prestbury, brought of course under the old Church Discipline Act, finally came before Lord Penzance in his disputed capacity as Dean of Arches. This was on 11th May and, after hearing the evidence for the promoter of the case, "his lordship adjourned the case until the result of the appeal to the Judicial Committee, in the Ridsdale case, should be declared."[16] An example of how the new Act was being seen as somehow superior to the old law and was set to be used as a source of authoritative precedent.

The same month, Charles Parnell resigned from his Perpetual Curacy of S.Margaret's, Toxteth Park, Liverpool for reasons unconnected with the similar prosecution which had been brought against him, and thus another case (there were nineteen separate prosecutions in progress at the time[17]) came to its unsatisfactory conclusion. Parnell, from Saint John's College, Cambridge and a former curate of George Rundle Prynne at Plymouth, was unable to find employment in the Church of England for the next four years, eventually joining the staff of the "Ark" - Saint Bartholomew's Church, Brighton.

On 13th July, 1876, meanwhile, Lord Penzance sat at Lambeth Palace to hear the cases of

Hudson and others versus Tooth and Serjeant and others versus Dale. Both defendants adhered to the firm line decided by the S.S.C. and refused to appear or recognise the Court in any way: in both cases, Penzance issued a monition ordering the two clergymen to discontinue the practices of which they had been guilty, and also awarded costs against the defendants. This was generally understood to be anything but the conclusion of the case, and both clergymen continued to engage in Ritualist practices.

The S.S.C. August Chapter held on 8th of that month, as well as voting expressions of sympathy for the Vicar of Hatcham and the Rector of S.Vedast's, Foster Lane, heard the legal opinion asked for at the May Synod on the subject of conveyance of property to another in order to escape any financial loss which prosecution might otherwise bring. This opinion had been obtained through the E.C.U. and thus illustrates the way the crisis was pulling together the different Ritualist organisations.

> Br Mackonochie read the opinion which had been obtained from Mr Hornell by the President of the E.C.U. [...] upon the subject of the Conveyance of Personal Property by a Priest attacked under the Public Worship Regulation Act. Mr Hornell was of the opinion that in the case of a Priest already attacked no such deed would hold good, but that were the deed executed by one not yet threatened with attack he believed that the Courts would uphold it.[18]

It does not seem to be the case that many Ritualist clergymen took advantage of this possibility: certainly, none of those concerned in the most prominent prosecutions of the 1870s did so.

The Chapter met again on 10th October and was addressed by Dale. He was aware that the next stage of his prosecution was about to proceed and was concerned that the concerted action of clergymen within the Ritualist Movement should continue:

> Br T.P.Dale was anxious to know if any concerted action was being taken with regard to the judgement of the Courts. He thought that we should organize some plan by which any attempt to stop Catholic worship should be immediately rendered futile. He would wish to bring the matter before the November Chapter.[19]

By then, however, it was to be too late: on the application of the promoters of the case, Penzance found that Dale had not obeyed the monition.

> The Judge proceeded to suspend him for three months ab officio, with the warning that if, within that time, Mr Dale did not signify in writing his intention to obey the monition, the inhibition would be continued.[20]

Dale was thus thrown back on his own initiative and allowed Bishop Jackson to intrude a curate for the term of the suspension. This course was not received well by a large section of the Ritualist Movement. Dale's apparent submission, and the awareness of the forthcoming judgement from the Privy Council in the Ridsdale case together meant that the S.S.C.Chapter debate on 14th November was to be of great interest.

The motion was that:

> It is imperative, in the view of the coming judgement before the Court of Privy Council, that the Catholic party should as a body pledge themselves to some definite course of action whereby the Blessed Eucharist may be administered reverently to the laity.[21]

Although the longer term future was considered, the discussion inevitably centred on Dale's action - it is, after all, easier to criticise what has been done than to decide in advance what ought to be done.

Dale explained his position: he was allowing the Bishop to see to the pastoral oversight of his parish, because to refuse this would have been to disobey him acting, he thought, as Bishop rather than as state officer. He refused to recognise the Court, and further alleged that the prosecution had been brought for ulterior motives:

> He stated that the prosecution had been purely a malicious one, because he had felt bound to look into the mode of distributing the large charities connected with Saint Vedast's Church.

Towards the end of Dale's prosecution (still several years away) public scandal was indeed to be caused by the way in which the Churchwardens had permitted money from these charities to be paid to the Church Association witnesses who were helping to attack Dale, so it would seem that his accusation at this stage was not far off the mark. Dale further explained that he considered that the sentence passed on him applied "simply to his own Church, of which the Bishop had resumed the charge." As far as he was concerned, then, he

was still free to minister elsewhere.

Others differed. Mackonochie spoke kindly but plainly: Dale should

> Return to his Church and ignore the sentence. He believed that Br Dale's position was an impregnable one, his Church had been made a nucleus, a centre of spiritual life in the city, he had gathered about him a faithful, if small, band of worshippers, it was known that he had to come from a considerable distance to give the frequent services which were held at his Church.

He was thus likely to obtain a large degree of sympathy from the broader High Church party, especially given that it seemed to be the Bishop's policy to get rid of him as quietly as possible. Mackonochie therefore moved the following amendment to the motion:

> That Br Dale be requested to report to the Bishop that the ~~the~~ Chapter of S.S.C. intreats him (Br Dale) to set aside the arrangement with the Bishop & to return at once to the care of the Parish of St Vedast.[22]

Next, C.S.Wallace asked three pertinent questions:

> 1) Whether a Priest can refuse the use of his Altar to his Bishop. Br Mackonochie thought that he could not.
> 2) Is an Assistant Curate whose licence has been withdrawn bound to abstain from all ministrations? Br Ware was of opinion that he was bound to.
> 3) Is it permissable to mention the statement of Br Dale outside the Chapter? Br T.P.Dale said the Brs were quite at liberty to do so.

Equally aware of the difficulties of Dale's situation was the Master, Francis Bagshawe; he said that, if he obeyed the sentence, Dale would no longer have any *locus standi* in the Church of England:

> He held no licence, he had no jurisdiction. He could not say Mass or hear Confessions, except in the case of dying persons.

All of which rather begged the question of how this could be the case when the suspension had originated from a Court the jurisdiction of which Ritualists refused to recognise: certainly, it made it more obvious to the Brethren that Dale should never have allowed the Bishop's nominee in to the Parish and that he should rectify the situation as quickly as possible. Dale voted along with the rest of the Chapter, since the amendment was carried unanimously[23], and appeared to be resolute in his decision to go back on the arrangement with Jackson.

The attitude of the Church of England establishment, and the outside world towards the new legislation can be judged from the Charge given by Archbishop Tait in the previous month, at Ashford in Kent, already a major centre of the railway industry. He spoke at length to his assembled clergy on the necessity of unity within the Church of England, and plainly viewed Ritualism as an affront to that unity:

> There really can be no doubt that this has been done to an immense extent, with the double result of weakening the loyalty of many thousands towards their Church and creating a doubt in many quarters whether it [the Church of England] is worth preserving at much political cost.[24]

So behind Ritualism, for the Archbishop, lurked the dual spectres of disestablishment from without and disintegration from within.

The comment upon the Archbishop's Charge in the Times applauded the way in which he was upholding the new legislation as a weapon against the "enemy within":

> That the Public Worship Regulation Act has been classed with persecution, inquisition, and other instruments of tyranny is only a tribute to its merit, as likely to be efficacious in its purpose.

This commentator was certain that public opinion remained firmly opposed to the Ritualist Movement: claims that the Ritualist clergy were being "persecuted" were patently ridiculous. There was no thought that the supposed English love of freedom could be used to create sympathy for those seeking to enslave Englishmen to Romish doctrines and practices. The Ritualist Movement was anyway insignificant in numbers and membership:

> The Romanizing Party in the Church numbers some clergy, generally young, a few adherents won by personal influence, and children taught in the schools.

It was a common accusation that the supporters of Ritualism were in some way defective: the presence of clergymen such as Denison, Butler, Carter and Lowder did not stop the claim that the Movement consisted entirely of hot-headed young men fresh from the dreaming spires, whilst, elsewhere, we find the suggestion that most Ritualist supporters were women (despite the prominent activities of the Church of England Working Men's Society) or effeminate young men. It was thus possible to dismiss the entire phenomenon as something

both insignificant and unhealthy.

The prosecutions of Tooth and Dale continued: the former was developing in far more satisfactory a fashion than the latter. Dale, although apparently resolute in his purpose of going back on his arrangement with the Bishop after the S.S.C. November Chapter, changed his mind again and continued in what was to most Ritualist eyes a position of submission to the new Act. The Church Times[25] expressed such a view:

> The Erastian Law has triumphed and thereby suppressed an important centre of Catholic worship when patron, priest and congregation are all united [...] the case is clearly one for resistance unto the end. Nothing can be more silly than for clergy merely to get themselves suspended.

Things with Father Tooth were very different: on 2nd December, 1876 Penzance sat again in the Library of Lambeth Palace, to hear evidence that Tooth had disobeyed the monition. Bernard Palmer, whose ancestors reported Tooth's defiance with such glee in their High Church newspaper the Church Times, writes:

> The library was inadequately heated, and many of those who attended the hearing are reported to have turned blue with cold. The judge himself sat with a rug over his knees. [26]

Tooth was not present to hear an identical sentence to that already passed on Dale being handed down: he was suspended from performing divine service for three months, and again this suspension was to remain in force thereafter unless Tooth gave a written undertaking to obey the terms of the original monition. Roberts observed sardonically that "In the inhibition there was no mention, from beginning to end, of the Bishop of the Diocese."[27]

Such a climb-down on Tooth's part was unlikely to happen. He preached an uncompromising sermon the following day, Advent Sunday. Joyce Coombs describes the scene well:

> As he mounted the pulpit the silence in the Church was such that "you could have heard a pin drop." Invoking the Holy Trinity he began the declaration. [...] He made three points. First he protested against the exercise of secular authority in matters spiritual. Secondly he called on his people to suffer for truth's sake and not to recognize the ministry of any priest other than his or one acting for him and under his authority. Thirdly he said that as he had not been inhibited by any lawful or canonical authority he declared that "ministrations other than my own are schismatical and an invasion and a robbery of the rights of the Church of England." He went on to preach a sermon on the text: "My kingdom is not of this world. If my

kingdom were of this world, then would my servants fight."[28]

Tooth's defiance immediately attracted indignation from the outside world and support from Ritualists. On 7th December, the Ordinary Meeting of the E.C.U. not only voted sympathy with and full support of the defiant clergyman, but also, at the instigation of the barrister son of the former Dean of Arches, decided to summon a Special Meeting of the Union after Christmas to debate the motion:

> That this meeting declares that in its judgement any sentence of suspension or inhibition pronounced by any court sitting under the P.W.R.Act is spiritually null and void, and that, should any priest feel it to be his duty to continue to discharge his spiritual functions, notwithstanding such sentence, he is hereby assured of the sympathy of the meeting, and of such support and assistance as the circumstances of the case may allow.[29]

The Church Times also threw its weight behind Tooth that week, with a three column leader on the case. The Second Sunday in Advent was 10th December and Tooth remained in possession of his Church, even if harassed and crowded by sightseers and anti-Ritualists.

The S.S.C. meeting two days later supported Tooth. His was the right course of action.

> This Chapter of SSC desires to thank Br Tooth for the firm stand which he has taken in a direct refusal to recognize the New Court, & in asserting his own position as the only person having, or who can have, during his incumbency, spiritual jurisdiction in the Parish: The Chapter also promises to support Br Tooth in any way which may seem practicable.[30]

Ridsdale wished to add some kind of explanation of how far a Bishop could interfere in parish life: characteristically, he wished to be as fair and generous towards the Bishops as possible, drawing attention to their presumed right to interfere in case of neglect of duty or misconduct, not arbitrarily as in this case. The Chapter, at Oxenham's suggestion, also noted "with sincere satisfaction" the public E.C.U. statement in Tooth's support.[31]

More time, however, was taken up at this Chapter meeting by the discussion of Dale's case; Tooth was on course, so far as the Brethren were concerned, whereas Dale was certainly not. The debate came to no firm resolution, but is valuable for the chance it gave for Dale to explain his behaviour. He had changed his mind about seeing the Bishop after the E.C.U.

Council's meeting a few days before the planned interview:

> I would have surrendered my own judgement to anything like an unanimous opinion of the Catholic school, but such was not expressed to me & does not exist in fact, & I accordingly determined on the course which I have since adhered to, which is to separate, as far as I am able, obedience to the Bishop from obedience to the secular power. [...] In this I shall continue, though I am aware it is not a popular line to take & will probably entail considerable personal loss.

He gave five reasons for this attitude: it was, first of all, unreasonable to expect a Bishop whose own view of his role was Erastian to act strictly in accordance with the dictates of Canon Law; he did not wish, secondly, to precipitate schism, but rather desired to give the Bishop time to act with greater justice (an implied criticism of Tooth); thirdly, he wanted to demonstrate to outsiders his "desire to obey lawful authority if it can possibly be done with a clear conscience"; also, he felt his position to be insecure in several important respects - he lived outside his parish, and his Churchwardens opposed him, so any attempt to resist his suspension "would probably have ended in an unedifying street row, & so have lost all value as a protest"; finally, it was the best and most Christian course, he felt, to submit to suffering rather than to judge his Bishop's conduct. These rationalisations exemplify again the underlying uncertainty among Ritualists about how to distinguish a Bishop acting as a Bishop from a Bishop acting as a State Officer: Dale's first reason went to the heart of the problem and, if taken seriously, would render meaningless the entire theoretical edifice which the Ritualists had constructed for themselves to explain why they would not obey the Act.

Ridsdale was again on hand to offer a way out of the problem which tended towards compromise: he proposed a motion, the first part of which rather pointlessly claimed "That the only relief for a Priest under sentence from his Bishop is to act according to ancient Canon & appeal to the Synod of the Province." This begged several questions: was Dale "under sentence from his Bishop" or just from the Court? Was the Convocation of the Province, for this purpose, the same thing as "the Synod of the Province"? What, if anything, would the whole procedure achieve?

The second half of Ridsdale's motion was even less satisfactory:

> but that if the Bishop in express terms abdicates his episcopal character & states that he only acts as a functionary of the Court, we are bound to treat him in the manner he invites and disregard him.[32]

This would appear to give the Bishop maximum leeway to act in as Erastian a fashion as he pleased so long as he did not explicitly repudiate all notions of episcopal authority. Although this was to be the way forward which Ridsdale took, it was clearly unsatisfactory to the majority and thus the motion was lost.

As to Dale's position, the majority opinion remained unchanged. He was not pilloried too severely; indeed, one can imagine that his presence at the Chapter had a calming effect and that comments of a more vitriolic nature might have been passed if he had not been there. Nevertheless some did not mince their words: Nihill was particularly blunt in highlighting the lack of unity among Ritualists even in the Society.

> We pass Resolutions, & then, when the time for action arrives, everyone does what he likes.[33]

This is common human nature in situations where a minority without any effective command structure are attempting to fight a more powerful and numerous body of opinion, and the S.S.C. cannot be blamed overmuch for this. But still it serves to demonstrate that, even at the very time that Tooth was beginning his practical, public resistance to the Act, the Ritualist party, although decently united in theory, were still dangerously disunited in practice.

Tooth alone was putting his convictions into practice and putting his head on the line for the Ritual which he had loved since he first came across it in the Australian outback[35]. On Saturday 16th December, Tooth was formally presented with notice of his inhibition. The same notice was pinned to the Church door the following day - and summarily removed by members of the congregation. By now, the attention of the national press was centred on the events at Hatcham, since it was "a time when there was a dearth of real news"[35] in the immediate run-up to Christmas.

On Saturday 23rd December, the Bishop's secretary delivered to the Vicarage a further notice

of inhibition. This also informed Tooth that another clergyman, Canon Richard Gee, Vicar of Abbots Langley, had been licensed to take services at Hatcham during the inhibition. When Gee turned up the next day, however, he was turned away by Tooth and his Churchwardens.

The Christmas holiday having passed, Tooth was mercilessly savaged by the Times on 27th December[36]. His noncompliance rendered him, it said, ridiculous rather than increasing his dignity - "He simply puts himself in the attitude of a child who has to be dragged away with much disturbance from its toys." His defiance had to be brought to an end:

> It may be necessary to coerce Mr TOOTH if he proceeds to the last extremities of resistance. But he and his friends may rely on it [that] he will neither be burnt nor tortured nor imprisoned a day longer than can be avoided. His martyrdom will simply consist in his being compelled to obey Lord PENZANCE's inhibition, and to cease from officiating at St James', Hatcham.

At the same time, other newspapers were coming down on one side or other of the fence[37]: The Solicitors' Journal highlighted the implications of the legal position. Tooth was technically contumacious or in contempt of court, and was therefore liable to be imprisoned. H.W.Hill, however, who was a parishioner of Tooth's and sacristan of his Church, wrote a number of letters to newspapers pointing out that the Bishop's appointment of Canon Gee infringed a clause of the Pluralities Act. Coombs comments that Hill's was "a very clever move, for it showed that ecclesiastical authority was not legally infallible."

The services at Hatcham were as normal on Sunday 31st December, 1876, although more than ever disturbed by anti-Ritualist brawling. The violent and unpleasant behaviour of the mobs had some effect on popular opinion already:

> There was a slight swing from outside opinion towards Tooth since it was generally agreed, as one wrote, that the "proceedings were disgusting," and there was a definite closing of the ranks in support from the clergy, many of whom had been far from ritualistic. Also, the discussion in the Press brought every shade of opinion into prominence and softened some of the sharp edges of criticism. Some reporters, who were hazy about the doctrinal and legal issues, praised Tooth for his "pluck"; for most people saw that the congregation backed up its vicar and considered he was their champion. All the same, the next official step was freely mentioned and considered to be incarceration in Maidstone Gaol.[38]

The following Sunday, 7th January 1877, there were between five thousand and eight

thousand around the church, disturbing the service and preventing the congregation from leaving the building for several hours, until police reinforcements arrived. The members of the S.S.C. had, since his putative inhibition, shown their support for Tooth by attending his Sunday services in bodies of up to thirty, and the January Chapter voted a gift of ten pounds to Tooth's Churchwardens "for the necessary expenses incurred in the defence" of Catholic truth.

On Saturday 13th January, Penzance, again sitting in Lambeth Palace Library, pronounced Tooth to be in contempt, having heard evidence through affidavits. He acted with the greatest reluctance, he stated, but considered that he had no discretionary power to refuse the complainants' petition. Tait was equally appalled by the unforseen consequence of the new legislation.[39] A writ *Significavit* was addressed to the Queen in Chancery, and this would automatically result in an order whereby Tooth would be committed to prison.

The next day, Tooth celebrated Holy Communion early in the morning and then locked the Church, departing for Tunbridge Wells in a state of exhaustion:

> At the end of St.James's little cul-de-sac, the church stood unlit, empty and locked, its own silent protest against a legal system which drove a sword between good men in all ranks of life.[40]

The Times remained hard-hearted: Tooth's resistance to legitimate authority was "mere childish display" and it was satisfactory that this defiance had been ended. Even the mob violence which had become such an unpleasant feature of the case was somehow Tooth's fault:

> The fact that it was deemed necessary to have a force of 300 police in reserve at Hatcham in order to control the mob of roughs [...] ought alone to make Mr TOOTH and his friends ashamed of the course they have adopted.[41]

A very different attitude to the *affaire* Tooth was abroad on the following day when the E.C.U. Special Meeting was convened at the Freemasons' Tavern.[42] It was estimated that over 1,200 men were present at the meeting, and an overflow meeting had to be convened in another room: there were also about 150 Women Associate Members of the Union, for

whom the gallery was reserved. The gathering passed three forthright resolutions concerning the perceived encroachment of the State upon the constitutional rights of the Church of England:

> 1. That the English Church Union, while it distinctly and expressly acknowledges the authority of all courts legally constituted in regard to all matters temporal, denies that the secular power has authority in matters purely spiritual.
> 2. That any court which is bound to frame its decisions in accordance with the judgements of the Judicial Committee of the Privy Council, or any other secular court, does not possess any spiritual authority with respect to such decision.
> That suspension a sacris being a purely spiritual act, the English Church Union is prepared to support any priest, not guilty of a moral or canonical offence, who refuses to recognise a suspension issued by such a court.
> 3. That "the Church" (not the State) having "power to decree rites and ceremonies and authority in controversies of Faith," this Union submits itself to the duly constituted synods of the Church; and, in regard to the legality of matters now under dispute, appeals to the rubrics of the Book of Common Prayer, and to the interpretation put upon those rubrics in 1875 by the resolutions of the Lower House of Convocation of Canterbury in regard to the Eucharistic vestments and the eastward position.[43]

The mood of the meeting reflected the attitude among Ritualists throughout the country. Resolutions of approval for this most explicit attack on the Public Worship Regulation Act streamed in from the country branches of the Union. Canon Carter of Clewer, who played a prominent part in the proceedings, commented shortly afterwards:

> The E.C.U. had never before taken so decided a stand in asserting before the world its determination to oppose, with all the fulness of the strength which its great numbers enabled it to command, the intrusion of the State into the innermost circle of the Church's spiritual rights and jurisdiction.

The Times was derisive of the entire meeting.[44] The resolutions demonstrated that in fact:

> The clergy of the English Church Union claim to be emancipated, in their interpretation of the Rubrics, from the control of any existing Court whatever, that they repudiate every legal authority in Ecclesiastical matters which existed at the time of their ordination, and that they appeal to the Lower House of the Convocation of Canterbury.

The writer seems not to have noticed that the E.C.U. was professedly a lay organisation with clerical members. No attention was given to the individual events of the Hatcham Case which had given rise to the meeting either: it was in the interests of the opponents of Ritualism to emphasise the theoretically illegal nature of the behaviour of Ritualist clergymen and to play down the rather unpleasant way in which the Church Association was going about things in practice. But the Times itself descended to a fairly low level of personal abuse, commenting

that Denison's speech was not going to be quoted,

> because we are reluctant to dwell on the spectacle of a clergyman venerable for his age and office and respectable for his character descending to the vulgar level to which the Archdeacon is now wont to lower himself.

Less than a week after the E.C.U. meeting, on Monday 22nd January, Tooth was served with the order committing him to prison, and was accordingly lodged in Horsemonger Gaol, near London Bridge. It is a pleasing thought that Father Tooth was thus situated in close proximity to the Wren church which was to become a bastion of extreme Anglo-Catholicism under Father Fynes-Clinton within a few decades - Saint Magnus the Martyr.

The public press could write, it seemed, of nothing else. Joyce Coombs gives a fine selection of reactions, and we may pass on, pausing only to note the profusion of bad puns on the prisoner's surname and, to a lesser extent, his parish. As Punch observed at one point,

> Your riddle upon Mr Tooth is the Tooth-ousandth joke we have received upon the same subject.

At the same time, however, Tooth was not the only Ritualist clergyman going through the ponderous machinery of the ecclesiastical law, and the Times, no doubt a little embarassed by the *furore* surrounding Tooth's imprisonment, shortly afterwards turned to consider the latest developments of the Ridsdale case. His appeal was shortly to be heard, as the first case to come before the reconstituted Final Court of Appeal; consequently, arranging the constitution of the Court was proving a matter of some intricacy. The result seemed a little on the large side: ten law lords, headed by the Lord Chancellor, and five episcopal assessors (Archbishop Tait, and the Bishops of Chichester, St Asaph, Ely and St David's). Counsel on both sides came from the ranks of the most talented of the legal profession.

The composition of the Court, when it became public knowledge, was attacked as a gratuitous waste of judicial power.[45] The Times was particularly scathing; the composition of the Court was ridiculous enough, but that its first case was to be about fine points of the Ritual law of the Established Church rendered it a hundred times more so:

> The time and the energy of all the Judges are consequently engaged in listening to

> arguments on such questions as whether a table not standing at a wall can be said to have any front or back to it; whether, as Sir JAMES STEPHEN [the counsel for the Church Association] thinks, two persons who are at opposite sides of such a table can both be said to be before it. [...] It is our painful duty to place them on record; but we have too much respect for the understanding of the great majority of our readers to suppose they peruse a single line of such reports after they have once discovered what they refer to. It is, however, a fact which they may, if they please, verify for themselves that two Lord Chancellors, three Lords Justices, a Lord Chief Baron, five other Judges, an Archbishop and three Bishops are giving up time incalculable to listen to hair-splitting on these points.

This was a change of tone from the Times' earlier attitude. Before, much play had been made on the importance of stopping Ritualistic practices in the Church of England and on the need to obey "the law" on such matters: now, the disputes surrounding Ritualism were presented as wearisome and irrelevant questions. It was still the fault of the Ritualist Movement that this impediment to the smooth running of the State and Church has arisen, but now the nuisance was considered to lie as much in the litigation as in the Ritualism which it was intended to suppress. The suggestion was clear: that engaging in Ritualist controversy was very much "fiddling while Rome burnt" - the problem of religious apathy and indifference was being neglected whilst Ritual irrelevancies were taking centre stage.

> If in days when theological and moral questions of the profoundest interest are being discussed, the only matters which absorb the attention of the clergy are such as are raised in the "Folkestone Case", they will soon find out that the nation cares very little for anything they may do or anything they may say.

The part which Ritualism and the attempts to put it down actually played in the decline of the importance of organised religion in this country is more difficult to guage. There were two very different aspects of this decline: that among the poorest, urbanised classes, and the intellectual alienation among the educated sections of society. The first type of decline was already far gone by the 1870s, in so much as the expansion of the urban population at the time of the so-called industrial revolution and the concomitant failure of the Church of England to keep up with this expansion by building new Churches in urban areas was now in the past. Indeed, the phenomenon of the Ritualist Slum Clergy represented an attempt to remedy this deficiency and so, to a certain extent, was part of a wider movement that slowed down the decline in influence. But as to the point that by the 1870s, the Church of England had lost much of its grip on the thinking classes too, here the Ritualist Movement was less

suited to the task: at this stage, Ritualists were generally conservative, even obscurantist, in their understanding of, say, Biblical history, whilst for intelligent people the writings of Bishop Colenso by now were "old hat". Intellectually, Ritualists were impaled on the two-pronged fork of Darwinism and German Biblical Criticism. Equally, the language the Ritualists were speaking - a language of dramatic ceremonial and obscure symbolism - was essentially a different one to that spoken by those who considered themselves to be the intellectual *avant-garde* in the brave new world of Victorian England: but the attempts to put down Ritualism were also still failing to address the intellectual concerns of many educated Englishmen.

Similar criticisms surfaced a few days later, this time occasioned by the meeting of the City of London Branch of the E.C.U. on 30th January[46]. Ritualists were divorced from reality in the interpretation which they put upon the position of the Church of England:

> We seem to be dealing with persons who live in a different world from this, who belong to some other Church than that of England, and who have modes of reasoning and habits of feeling entirely different from those of the rest of their countrymen.[47]

This meeting, although discussing the Ridsdale hearings, was chiefly concerned to support Arthur Tooth, who all the while remained in prison, surrounded by the journalistic tempest. The Rock, closely connected with the Church Association as it was, managed still to sneer at Tooth:

> A well-dressed, well-fed ecclesiastic, holding levées and receiving bouquets of flowers from his lady admirers, and hampers of game from his male friends, is felt to have as little claim to be dubbed Martyr as summer excursionists in first-class carriages to Lourdes have to rank as pilgrims.[48]

The three complainants appeared equally hard-hearted: on 13th February, one of them (a Mr Hudson) went on record as denying "that he and his fellow persecutors were anxious to have Tooth released"[49]. Tooth, it seemed, would have to stay in prison for the foreseeable future.

But the outcry and indignation surrounding Tooth's imprisonment continued to grow: on 15th February, the S.S.C. again voted its sympathy and support for him. More public was the "triumphal" meeting of the Church of England Working Men's Society at the Cannon Street

Hotel the following day. There were about 4,000 men present at this "triumphal" event, and it seems that Coombs was right to suggest that it was this display of grass-roots support for the clergyman which tipped the balance towards his release. The Home Office was informed that "it would be advisable to release Mr Tooth to avoid serious consequences" and the three complainants were prevailed upon to request Tooth's release.

Lord Penzance, then, sat to hear the application for the prisoner's release on Saturday morning, 17th February 1877. He heard evidence that the Bishop's nominee had now been able to take possession of St James' Church, Hatcham (he had, using the good offices of a locksmith) and, since Tooth would no longer be in a position to ignore the inhibition pronounced against him, he ordered Tooth's immediate release. This occurred later the same day.

What then was the situation? Had Tooth triumphed, or had the law won? Opinions differed, and inevitably the popular verdict on the affair was reliant on the forthcoming judgement in the Folkestone Case. Palmer sums up the press reaction at the time[50]:

> The anti-Tooth faction paradoxically saw his release as a triumph for the law, which in a sense it was. "Mr Tooth was imprisoned for contempt; he has been released with contempt," sneered the *Times*. But the *Daily Telegraph* thought that he had got away too lightly: "Without expressing contrition, without paying the costs, still resolute in taking no notice whatever of Lord Penzance... and practically defying the majesty of the law, he is a free man." The *Nonconformist*, which might have been expected to be hostile to Tooth likened his case to that of St Paul...

These three very different attitudes all have something to be said for them: physically the law had triumphed, since Tooth was no longer in possession of his parish Church, but had been released without any compromise of his theoretical position. But the Nonconformist showed most significantly the impression which the episode had produced on many outside observers who were themselves far from being Ritualists. It was, after all, said at the time that for every ten Churchmen who deplored Tooth's Ritualistic practices, there could be found a hundred who deplored his imprisonment.

The focus of attention in the war against Ritualism now returned to Charles Ridsdale, the

Court of Appeal having completed their hearings and being now engaged in the formulation of a judgement. But before this verdict was made public, the Low Church newspaper The Record carried reports of another event of significance in the disputes[51]. This was Penzance's resignation: the reports were in fact mistaken, but this was not immediately obvious. Even the Times was inclined to believe them:

> As no contradiction whatever of this report has been received, it must be supposed to have some foundation, but we are extremely reluctant to give it full credence.[52]

The suggestion was that Penzance had found his job too fraught with difficulties, dating back to the problems encountered concerning his salary at the time that the Bill was passing through the parliamentary procedure. Recently, he had also had trouble finding an appropriate room in which to hear cases: he had benefited from Tait's hospitality by using the draughty Library at Lambeth Palace, but when he sat to hear the application for Tooth's release, he had been reduced to using his own dressing room in the House of Lords[53]. The general distrust exhibited towards the "new Court" was cited as another factor contributary to the supposed resignation. As it turned out, this false report was but the latest indignity which the Judge was called upon to put up with: he resolutely resisted the temptation to retire to grow his roses in peace. At least the false reports of his resignation furnished him with a little moral support. The Times declared rather over-optimistically that:

> His conduct [...] under the new mode of procedure established by the Public Worship Act, has been exactly what was needed to establish its authority and to allay prejudice.[54]

This was at the start of April; the following month was more productive of real news. On 2nd May, the League for the Disestablishment of the National Church met under Mackonochie's presidency. An impressive number of clergy (over a thousand) had already signified their support for the severance of Church and State, and the meeting was able to formalise the League's constitution. This League was the result of Mackonochie and Stanton having resigned from the radical and Nonconformist-dominated Liberation Society of Edward Miall earlier in the year. Reynolds reports disappointedly of the League that:

> I have not been able to find out much about this organisation. That old war-horse, Archdeacon Denison, was a member, but as one commentator puts it, "the great mass of steady-going and respectable Churchmen, whether High or Low, held stolidly aloof".[55]

Although it had no long existence, it would seem from the newspaper reports at the time that the League attracted considerable attention.

On 12th May 1877, however, the Judicial Committee Court of Appeal delivered its verdict in the appeal in the Ridsdale Case. Three members of the Judicial Committee were conspicuous by their absence from the proceedings; these were Fitzroy Kelly, the Lord Chief Baron, Sir Richard Amphlett and the former Dean of Arches, Sir Richard Phillimore. These had, in fact, dissented from the judgement but had been prevented by the Lord Chancellor from pronouncing their opinions in open court.[56] The decision concerned four points - the Eucharistic vestments, the Eastward Position, Wafer Bread and the use of a Crucifix on a Rood Screen. On the vestments and the crucifix, the Court found against Ridsdale, but with reference to the other points:

> Their Lordships will advise her Majesty that, inasmuch as it is not established to their satisfaction that the appellant, while saying the Prayer of Consecration, so stood that the people could not see him break the bread or take the cup into his hands, as alleged in the representation; and inasmuch as it is not alleged or proved that what was used in the administration of the Holy Communion was other than bread such as is usual to be eaten, the decree of the Court of the Arches should be in these respects reversed[57]

Ridsdale, then, was acquitted of using Wafer bread but its illegality was maintained. Equally, the question of the Eastward Position was reinterpreted in terms not of the position of the minister, but of the visibility of the actions "before the people" thus revising the Purchas Judgement. The Eastward Position was legal, so long as there was no proven "intention to prevent the people seeing him break the bread", but this was too little and too late. The Purchas Judgement had done its bit to bind more closely together Tractarian and Ritualist, so that this grudging concession now was unlikely to make any difference to High Church attitudes. The absent dissentients also weakened the effect of the Judgement:

> The Ridsdale judgement seemed too obviously an expedient compromise to be respected as a detatched interpretation of the law. This impression was confirmed when the public later heard that at least one of the judges had disagreed with the majority verdict and thought that it was influenced by policy as much as by law. [...] Determined ritualists felt no hesitation in ignoring the verdict.[58]

The S.S.C. followed such a course: they and the E.C.U. had more or less washed their hands

of the case, since Ridsdale had made an appeal which appeared to recognise the structures set up under the Public Worship Regulation Act. In the public forum, the judgement was received with mixed reactions: much was made of the lack of unanimity in the Guardian and the Church Times, whilst the Times[59] tried to make the best of the situation. A rather defensive leading article explained why vestments were illegal - at surprising length for a newspaper which had only recently claimed that no discerning reader was interested in the *minutiae* of legal argument about Ritualism. The Judgement was "the most important yet pronounced upon those Ritualistic questions which have occasioned so much excitement and contention in the Church". That it was the first Privy Council judgement under the new Act could have no bearing on its authority to be attributed - it would still have been the same court dealing with the appeal, had the 1874 Act never reached the Statute Books. The most obvious about-turn on the Times' part however was its defence of the legality of the Eastward Position: it was recognised that the judgement rendered it extremely difficult to prosecute a clergyman for using that position, because of the virtual impossibility of proving that the so-called Manual Acts could not be seen.

> The proscription of the vestments is a decisive condemnation of the extreme Ritualists, but the only practice in which moderate High Churchmen could discern a point of principle is tolerated; and the judgement therefore ought, in substance, to secure the peace of the Church.

Ridsdale was at the centre of an ecclesiastical storm and was unsure how he ought to react: he was already fatally compromised in the eyes of extreme Ritualists, yet he was not short of advice, mainly conflicting and contradictory. His Vicar, Matthew Woodward, shortly afterwards did his best to lend Ridsdale some much-needed support by making public the rather sordid facts behind the prosecution:

> One of the nominal prosecutors, Clifton by name, a baker by profession, admitted, in the presence of unimpeachable witnesses, that he had been asked by the Mayor of Folkestone (Wightwick) to attend one of the services. He had never been in St Peter's before, and subsequently signed a paper, without knowing its contents, by which action he became one of the promoters of the suit. On being subsequently urged to withdraw from the suit, he admitted that he was a "man of the world, and made no profession of religion," and was prepared to withdraw for the sum of £200. Another of the promoters, Harris, a publican, expressed himself in similar terms.[60]

This last point requires some comment on the Church Association's overall policy of

prosecutions. The use of complainants of dubious backgrounds was, it seems, the general rule: Martin, Mackonochie's persecutor (a schoolmaster), Colonel Elphinstone, Purchas' complainant and later Dr Julius in the Clewer Case were exceptions. If the Association could have found respectable people who were genuine members of a Ritualist congregation and who were genuinely aggrieved by the liturgical practices to which they were exposed, surely these would have been used. This suggests a conspicuous unity within Ritualist congregations. Nevertheless, the Church Association very much took its stand on the parochial structure of the Church of England, at threat from Ritualist congregationalism, so to some extent the use of parishioners rather than congregation members was a statement of policy.

Woodward's revelations naturally won sympathy for his curate. The Folkestone Chronicle declared:

> Whatever may be the opinion of the result of this case, all who love fairplay must regret the manner in which the prosecution has been promoted. The Rev C.J.Ridsdale has received considerable sympathy from those opposed to him because they believed the end in this case sought to be obtained, did not justify the means employed. If the three parishioners were really "aggrieved" parishioners, Mr Ridsdale would have no grounds for complaint. They were not attendants or communicants of his Church, they certainly knew very little about ecclesiastical matters, and they merely consented to be tools in the hands of others. [...] Those so anxious to repress Ritualistic services at St Peter's, should have waited until they found the real "three aggrieved" because the spirit of the Public Worship Regulation Act means that those, and those only, who have cause for complaint should be prosecutors.[61]

Nevertheless, this local newspaper still welcomed the Judgement as an eminently satisfactory compromise which should please moderate High Churchmen. It hoped that Ridsdale would comply with it, thus "restoring peace to the Church of England in Folkestone, which has for some years been disturbed by the most discordant elements."

It was a couple of weeks before it became clear what Ridsdale's course would be. In private, he was racked by indecision, made worse by his having opened tentative negotiations with Tait (his diocesan bishop). In public he disregarded the Judgement, using the forbidden adjuncts of vestments, lighted candles and the mixed chalice. His congregation passed a motion of support for him after Evensong on his first Sunday back after the judgement. This was full of fighting talk about "obedience to the plain laws of the Church", but equally

vehement was the tone of the attacks on him in the local press.

> We cannot find the shadow of an excuse for the Vicar of St Peter's. We have been desirous to do so, because we admire his zeal and earnestness, appreciate the good he has accomplished in his parish, and think that in the manner in which this prosecution was originated he has been hardly dealt with. But Mr Ridsdale appealed to the privy council himself, and when the decision is given against him by that Supreme Court, like a spoilt child he persists in doing all the things he is expressly forbidden to do.[62]

His position was indeed compromised by his previous actions, and so it was from a rather weak position that he approached Tait. What he really required from Tait if he was to obey the judgement was a clear declaration against the Ritualist interpretation of the Ornaments Rubric, but he was prepared to be guided by Tait if it was clear that he was acting in his episcopal role. Tait responded by providing a dispensation from any supposed obligation under which Ridsdale felt himself to be labouring, without, however, asserting any claim to the powers which Ridsdale attributed to him. He also took care to avoid stating his own opinion that the judgement was correct and the Ornaments Rubric did not require vestments to be used. Marsh, for one, does not bring out this aspect of the Archbishop's actions[63]. The generally quoted passage from Tait's final letter, dated 7th June 1877, is indeed in the form of a dispensation:

> I gather that while you consider yourself as being under a sacred obligation to act upon what you conceive to be the literal meaning of the Ornaments Rubric in the Prayer Book, you yet acknowledge a general dispensing power to reside in me as your Bishop, and you are ready under such dispensation to abstain from the use of the alb and chasuble, and lighted candles at the time of the Holy Communion, and the mixed chalice. I am quite ready to satisfy your conscience in this matter, and do hereby grant you a complete dispensation from the obligation under which you believe yourself to lie.[64]

But Ridsdale had specifically asked that Tait declare his interpretation of the Ornaments Rubric to be incorrect. This would have allowed Ridsdale to claim that he was obeying his Bishop, whose judgement only happened to coincide with the Courts'. On 6th June he had written:

> If your Grace will take into consideration the fact that you have never, throughout these six years during which I have worn the vestments, given me the slightest intimation that you considered I was breaking the law of the Church, you will, I am sure, forgive me for asking you for some assurance that, by your present direction made under my peculiar circumstances, you are (not merely enforcing the late decision of the Privy Council but) delivering your own episcopal judgement to the effect that the Ornaments Rubric does not prescribe the use of alb and chasuble, ...

> lighted candles at Holy Communion, and the mixed chalice, and that therefore my obligation to use these things has been only a supposed one.[65]

Tait, however, blurred the edges of the distinction, thus avoiding any clear claim to have extra-legal powers. The dispensation he gave was from "the obligation under which you believe yourself to lie", but for something to be a dispensation, there must be a valid rule from which to be dispensed.

Ridsdale had acted in accordance with the accepted Ritualist view of episcopal authority - the more acceptably in that he ended up accepting a dispensation rather than an episcopal judgement that he had been wrong to wear vestments all along. Yet it resulted in his apparent submission to the hated Act. It was a weakness in the Ritualist position that a Bishop who did not himself believe in the distinction between acting as a State Officer and acting in a spiritual capacity was able to compel obedience by use of this very distinction. Was it better for Ritualist clergy to ignore the Bishop entirely in practical matters, even whilst professing to hold a high view of episcopal authority?

The S.S.C. reaction to Ridsdale's submission might confirm such a suggestion. On 12th June 1877, it was resolved that the Canon Law Committee should examine the entire matter of episcopal dispensations, clearly with the aim of avoiding such use of them in future:

> That in view of the possibility of Brethren being placed in a similar position to Br Ridsdale, the subject of Dispensation, especially in its bearing on the Ridsdale Case, be referred to the Canon Law Committee, with the request that they will report thereupon, and in particular with respect to the following questions: (i) whether a Dispensation is of any value which avowedly does not recognise the obligation from which it professes to dispense? (ii) whether Bishops have the power to dispense, except in cases of extreme necessity, from the ordination vow, or the Law of the Church? (iii) whether it is advisable for the Brethren of the Society to act upon such dispensation?[66]

The first question ran counter to Ridsdale's own approach; the second sought to reduce the much exalted powers of the Bishop "acting in his spiritual capacity" to something almost incapable of practical use; the third, by using the word "advisable", suggested that the ultimate concern was more with policy than theory. This was understandable enough, since too close an adherence to their theories would result simply in defeat in the struggle to keep Ritualist

practices alive within the Church of England.

What, then, was the reaction of the outside world to the resolution of Ridsdale case? The Times considered the recent events in Kent as showing how quickly sympathy for Tooth had worn off, claiming that:

> Upon the whole there can be no doubt the opposition to Ritualism has been substantially successful, and the interposition of the Church Association has been justified.[67]

The dispensation was greeted as a ploy which might well "be worth trying" in other cases. It was above all suitable as an escape route for clergymen wishing to get themselves out of hot water without losing face:

> There are probably not a few well-intentioned gentlemen who have got themselves into a difficulty like Mr RIDSDALE's, without quite knowing what they were about, and who would be glad to have a bridge built for their decent retreat.

The suggestion was that many Ritualists were disillusioned and now only wished for a quiet life. The abuse of the Times was reserved for those who, like Pusey, attacked the judgement as a "palpable misrepresentation of the law", especially sensitive was the fact that the judgement had not been unanimous:

> Those who differ [...] have a right to maintain their own opinion. But they have no right whatever to insinuate, still less to assert loudly, that the judgement is unfair and prompted by prejudice.

In the local press in Folkestone, the dispensation was attacked from a different angle: Ridsdale's acceptance of it was, the Folkestone Chronicle pointed out, conditional on the future action of Convocation:

> Mr Ridsdale's obedience is conditioned upon the action of Convocation, so that if that body takes no action , he feels himself at liberty to resume the forbidden practices.[68]

But worse was that the Archbishop had lowered himself to fit in with Ridsdale's views, by appearing to ignore the Court by which the clergyman had been condemned. The Folkestone Express acidly commented:

> We say nothing with regard to this specimen of the Archbishop's system of management of his clergy, but it does truly seem a most ridiculous state of affairs ...

> that he should grant a dispensation for non-compliance with a rubric, which according to the ruling of the Committee of the Privy Council is unlawful.[69]

These two newspapers were however also united in the hope that this would restore peace to the parish. Ridsdale had "offended many of his own party by the course he has taken, who desire him to carry the principle of resistance to the farthest", but this was no bad thing as far as the papers were concerned.

As noted before, Charles Ridsdale was to remain at S.Peter's until 1923, and seems gradually to have resumed the Ritualistic practices which he had abandoned amidst so much Ritualist criticism. From the local press, it is apparent that he was highly thought of as a pastoral clergyman, even by those who reprehended his High Church excesses, but from the Ritualist point of view, the upshot of the case brought against him must be that the little which was gained in the Tooth Case had been lost again.

This victory was, however, shortly to be offset by a blow to the smooth running of the anti-Ritualist legislation. This concerned Dale of S.Vedast's: on 30th May, 1877, at his own instigation, the Court of Queen's Bench sat to consider Lord Penzance's conduct of the case to that point. Dale urged that the proceedings had been irregular on two grounds. The Bishop of London, as patron of the living, should have passed the case to the Archbishop of Canterbury rather than acting himself to decide whether the case should be heard. His second objection was that Penzance had heard the case in the wrong place, since Lambeth Palace was neither in the Diocese of London nor in the Cities of London or Westminster. But before any decision on this application was made, a lot of water was to flow under the bridge and the Ritualists, in particular the S.S.C., were to find themselves subject to an unexpected and severe attack on a different aspect of their Movement.

NOTES ON CHAPTER THREE

1 The Times, 17 September, 1874.

2 So dangerously Romish was the Hymns Ancient and Modern that the Church Association devoted an entire tract to attacking it. This was tract 21, Hymns Ancient and Modern and their Romanizing Teaching, by the Rev'd James Ormiston of Old Hall, near Dudley. Of the 273 hymns in the 1861 edition, he claimed, 118 were from "Popish sources" and it thus formed part of a "progressive scheme for Romanizing the congregations of our land": among other things, Ormiston alleged A&M to teach Mary-worship, Idolatry, Transubstantiation, Baptismal Regeneration (treading on rather thin ice, that one), and Prayer for the Dead. One can however sympathise with his complaint that far too many people do not care what the words are like, so long as "the tune is good"...

3 N.Yates, Kent and the Oxford Movement, p17.

4 Roberts, p177.

5 These had already been the target of anti-Ritualist attacks: an unsuccessful attempt was made to force him to remove the Stations in 1873.

6 Roberts, p176-7.

7 The Times, 4 February 1876, p9b.

8 There was, indeed, some speculation that such a body of clergy might form a "personal prelature" within the Roman Catholic Church in this country under the former Anglican Bishop of London, Sir Graham Leonard, at the time of the Church of England's decision to create Women Priests, but it came to nothing.

9 The Times, 4 February 1876, p6a.

10 J.Coombs, Judgement on Hatcham: The History of a Religious Struggle 1877-1886, especially p38ff.

11 Coombs, *op.cit.*, p39.

12 Roberts, p178.

13 Embry, p57.

14 K.S.C., Ch71, A3, pp331-337.

15 For example, the Tory Minister, John Gummer in Daily Telegraph, 2 December 1992:

> Whoever holds the post [of Archbishop of Canterbury] next cannot possibly claim he is there as a successor of the apostles because that is no longer the claim of the Church of England.
> The Church has now claimed that its orders do not come from the apostles but are in fact open to the change, the alteration and modification of the General Synod and therefore, the whole basis of the Church of England has been undermined.

16 Roberts, p178.

17 Coombs, *op.cit.*, p48.

18 K.S.C., Ch71, A3, p361f.

19 *ibid.*, A4, SSC Minutes of Chapter and Synod, 1876-1879, p8.

20 Roberts, p185.

21 K.S.C., Ch71, A4, p16.

22 *ibid.*, p18.

23 *ibid.*, p19.

24 The Times, 13 October 1876, p7c.

25 quoted in Coombs, *op.cit.*, p51.

26 B.Palmer, Reverend Rebels: Five Victorian Clerics and Their Fight Against Authority, p125. Note that Palmer wrongly claims Penzance "pounced again": the timing of this hearing was not up to him but reliant on the action of the complainants and, behind them, the Church Association.

27 Roberts, p186.

28 Coombs, *op.cit.*, p51-2.

29 Roberts, p186.

30 K.S.C., Ch71, A4, p31.

31 *ibid.*, p33.

32 *ibid.*, p35.

33 *ibid.*, p37.

34 Coombs, *op.cit.*, p24; also, Palmer, p118.

35 Coombs, *op.cit.*, p56.

36 Times, 27 December 1876, p7c.

37 Coombs, *op.cit.*, p59.

38 *ibid* , p61

39 Marsh, p227.

40 Coombs, *op.cit.*, p67.

41 Times, 15 January 1877, p9d.

42 One of the few flaws in Coombs' excellent book is her mistaken dating of this meeting to the previous week ("The meeting of the English Church Union came first", *op.cit.*, p65.). There is ample evidence to prove that it occurred on 16th January 1877., e.g. Roberts, p187, Times, 18 January 1877, p9d.

43 Roberts, p187-8.

44 Times, 18 January 1877, p9d.

45 Times, 27 January 1877, p9c.

46 Roberts omits to mention this meeting in his chronicle:c.f. Roberts, p188-9.

47 Times, 1 February 1877, p9c.

48 quoted in Palmer, p134.

49 Coombs, *op.cit.*, p80.

50 Palmer, p136.

51 The Record, 3 April 1877.

52 Times, 4 April 1877, p9d.

53 Coombs,(*op.cit.*, p80.), wrongly places this in the House of Commons.

54 Times, 4 April 1877, p9d.

55 Reynolds, p207.

56 Marsh, p224.

57 Roberts, p191.

58 Marsh, p224.

59 Times, 14 May 1877, p11c.

60 Roberts, p192.

61 Folkestone Chronicle, 19 May 1877, quoted in Yates, Kent..., p91-2.

62 *ibid*., 2 June 1877, quoted in Yates, Kent..., p93. Note that Yates' book puts a "not" into the final sentence quoted.

63 Marsh, p225.

64 Quoted in part in Marsh, p225, and in full in Yates, Kent..., p95-6.

65 Yates, Kent..., p94-5.

66 K.S.C., Ch71, A4, p107.

67 Times, 14 June 1877, p11d.

68 Folkestone Chronicle, 16 June 1877, quoted in Yates, Kent...

69 Folkestone Express, 16 June 1877, quoted in the same.

CHAPTER FOUR: ANTI-CONFESSION AGITATION AND CONTINUED PROSECUTIONS 1877 - 1878

Christian, dost thou hear them,

How they speak thee fair?

"Always fast and vigil?

Always watch and prayer?"

Christian, answer boldly,

"While I breathe I pray:"

Peace shall follow battle,

Night shall end in day.

-Hymns Ancient and Modern No 91.

The Priest in Absolution.

The *cause célèbre* of June 1877 was the Ritualist practice of auricular Confession. The attack centred on the S.S.C. manual for confessors, entitled The Priest in Absolution. Although this study is primarily concerned with the attack on Ritualist liturgical practices through the courts, the events of June 1877 can hardly be ignored.

Marsh devotes an entire chapter of his biography of Mackonochie to the Priest in Absolution affair, and Ellsworth also treats the matter in detail in her biography of Charles Lowder, so too close an examination of the details is unnecessary, but there are several observations to be made at the outset. First, the attack on Confession played very much the same role as the condemnation of the Eastward Position, in that it was an attack not only on the extreme section of the Ritualist movement, but also on more moderate High Churchmen: it is easy to overlook the fact that sacramental Confession was practised by Tractarians who did not use Catholic Ritual when celebrating Holy Communion, especially as in the late twentieth century the situation is very much the opposite, with many parishes outwardly Catholic in their ceremonial, yet without much regular use of the Sacrament of Penance. The Purchas Judgement had already served to bind together moderates and extremists in a common cause,

and although at the time very unpleasant and threatening, the attack on Confession served to reinforce this community of interest.

Also, the problems over The Priest in Absolution effectively cured the weakness in the S.S.C. which rendered the difficulties so acute in the first place. The events themselves show this. The S.S.C. had long felt the need for an authoritative manual for the administration of Confession, and back in the early days of the organisation, in January 1859, Pusey had offered to produce a translation of the work of one of the foremost Roman Catholic moral theologians, the Abbé Gaume's Advice on Hearing Confessions[1]. He proved to be too slow in getting around to the task and eventually John Charles Chambers, Vicar of S.Mary's, Crown Street, Soho, was commissioned to compile such a guide-book. Marsh states that:

> It was generally felt by the Brethren that "they could not have made a better choice". We are told at the same time, however, that Chambers undertook the compilation of the manual entirely on his own responsibility - "the Society was responsible for the request, but not for the manner of execution... It was never called upon to revise, read, or pass any judgement on the book." A somewhat anomalous state of affairs.[2]

This is surely an understatement: the suggestion that the contents of the book were the responsibility of Chambers alone was an evasion of the truth, prompted by the outcry of June 1877, and which Chambers was unable to correct, having died three years before. If like the God of the Deists, the Society had simply set the process in motion and then had nothing more to do with it, why did the Brethren feel the need to buy up from the printers the remaining copies of the more sensitive part of the book? Clearly, the S.S.C. recognised both that the work was of a potentially controversial nature (Carter suggested that parts of it should be put into Latin) and that it was in large part responsible for it. The attempt to evade this fact was largely due to the fact that not every member of the by now relatively large Society actually was conversant with the contents of the book. Marsh again:

> The main sales were no doubt to members of the S.S.C., though by no means all the Brethren were prepared to pay 5s. 4d. for a copy, and there is reason to think that even some of those who did buy relegated the book to their shelves unread. [3]

It was also true that the subsequent outcry about the Priest in Absolution made it more attractive for Brethren to claim that they had left it unread. Given the expense of buying the

volume, and the repeated calls beforehand for such a publication, it would seem unlikely that many who purchased it were not also conversant with what Chambers said in it.

It was all the more surprising therefore that the S.S.C. Chapter of 12th June 1877 failed to see the gravity of the situation when it was mentioned that a copy had fallen, by a process which was to remain impenetrable until 1890[4], into the hands of the Earl of Redesdale, who proposed to raise the matter in the House of Lords. Most of the meeting was devoted to other matters and, apart from Mackonochie's bold - if rather risky - suggestion that the book should have been openly published "as the privacy with which it was surrounded would be sure to excite the curiosity of the Church Association"[5], produced nothing more than the decision to leave further action in the matter to the Master.

Bagshawe only had time to write to the Bishop of London the next day, laying before him an unapologetic but helpful account of the origins and use of the book: the day afterwards the storm broke, with Redesdale, apparently supported by the Bishops, attacking the book, the concept behind it and the "secret" Society which produced it. As with much Victorian anti-Confessional literature, there was a distinct element of prurience: Redesdale concentrated his fire on the section dealing with sexual matters, without regard for the context or purpose of these passages:

> The second [section quoted by Redesdale], pages 113 to 115, discussed the occasions on which it might be necessary to question a penitent about sins of the flesh, for example, whether a confessed impure thought was indulged in or resisted. Obviously a three page discussion of fornication, adultery, masturbation, incest and the like made unpleasant reading, but only an unthinkable naïvety could pretend that confessors never met with such things, while only the thoughtless or the malicious could suppose that questions on these subjects were intended to be used in the generality of cases.[6]

Public outrage was further heightened by the (false) suggestion that the salaciously presented extracts to be seen in Hansard and in the public press were mild compared to other parts of Chambers' work.

This was the start of a summer of persecution, aimed specifically at the S.S.C. as the body

responsible for this obscene presentation of the Confessional. That the Society had managed to keep its existence very much in the shadows before this did not help matters: not only was it introducing un-English, un-Protestant doctrines, but it was working secretly and insidiously.

Whilst the press continued to make as much as possible of the scandalous side of the matter, in private serious pressure was being exerted on the S.S.C. by the Bishops. Redesdale had given the Bench of Bishops more than a week's notice before making his speech. Some at least of them recognised the exaggerated tone, including Mackarness of Oxford:

> When a most excellent man who practises Confession is called a besotted wretch, and another is called a filthy dirty beast, I am astonished not so much at the untruth as the folly of those who use such expressions.[7]

Nevertheless, the Bishops were quite clear that the Prayer Book allowed only for Confession in the extraordinary circumstances of the deathbed and the scrupulous person unable otherwise to quiet his conscience, and mainly joined in the chorus of condemnation.

Francis Bagshawe, a mild and gentle man, thus found himself at the centre of a storm: the very existence of the S.S.C.was threatened from without by Tait and his colleagues, and from within by the desertion of the more moderate members on an unprecedented scale. He took steps to hold the Society together, claiming on 25th June that he "had reason to think that the Bishops are disposed to be friendly". He also froze the membership of the Society until a proper discussion of the subject was possible:

> I have decided also not to accept the resignation of any brethren for the present, not to print the Roll of members, nor to permit the distribution of the *Priest in Absolution* until after the September Synod.[8]

Walter Walsh, in his Secret History of the Oxford Movement[9], quotes an example of the feelings of one member who was obviously trying to extricate himself from the situation. Frank Oxenham, of S.Barnabas', Pimlico, wrote to Tait on 19th June:

> When [...] I looked into the book, I felt that no words could be too strong to condemn the principles advocated, and the advice given in that book as to the questioning of persons who came to Confession. If the practice of Confession involved, which it certainly does not, any such questioning, I should regard it with abhorrence. I am sure, my Lord, that a very large number of the members of the Society of the Holy Cross are as ignorant as I was of the contents of this unhappy

> book, and would repudiate its principles in the matter to which I have alluded as sincerely and utterly as I do.[10]

He also undertook to urge the destruction of all remaining copies. Oxenham did not in fact repudiate habitual Confession but only Chambers' presention of it: he might have had a point, in that the normal practice of Confession virtually never involves the priest asking questions of the penitent. Oxenham, however, was not perhaps the best example that Walsh could have taken: Oxenham stayed to advocate his views, whilst other Brethren simply chose to cut and run. Walsh's comment on these was not so unfair:

> There is reason to believe that most of the brethren who at this period left the Society did so, not because they disapproved of the Society or the *Priest in Absolution*, but simply through fear.[11]

Opinions on what was to be done differed even among the more resolute members. Francis Murray of Chislehurst arranged for a deputation to confer with Tait and other senior Churchmen at Lambeth. Mackonochie strongly opposed such action, suggesting that there was no need to enter into explanations which would compromise their position by implying that there was something which indeed required explanation. But his views did not prevail, and the meeting took place on 28th June. The upshot of the discussions was that Tait urged the Society to come to a decision to repudiate the book in time for him to present this decision to Convocation. Ellsworth notes laconically that:

> The meeting lasted three hours. After it Lowder went home to hear confessions in preparation for the parish patronal festival the next day.[12]

This special Chapter took place on 5th July 1877. There were three main bodies of opinion. Mackonochie continued to support the Priest in Absolution and all that it stood for; he saw the entire episode as "very like a conspiracy"[13] on the part of the Bishops. The fact that they had known of the impending action to be taken by Lord Redesdale and had done nothing by way of contacting members of the Society, he urged, indicated

> that the Bishops, feeling that the recent persecutions had failed, had got up this attack, in order to cast a stigma on the Society, which they knew to be the most active maintainer of the Catholic Faith in the present movement.[14]

Others, led by Oxenham, were in favour of a condemnation of the book. Although supported

by the letters of absent Brethren, including Littledale, and by at least one resolution of a local chapter (this was Edinburgh, whose Chapter had passed a resolution to the effect that "the Society's further connection with the book was undesirable"[15]), Oxenham's views did not find sufficient support among those present to win the debate.

The largest body of opinion filled the middle ground one way or another. Each proponent of a middle course offered a slightly different attitude towards the offending book, but the consensus was that the Master's Council had been right to go to see the Archbishop, that any explicit condemnation of the Priest in Absolution was to be avoided, but that it would be politic to undertake not to distribute it in future. In particular it was feared that,if the Society did not make some such undertaking in order to defuse the situation, the Convocation would produce an official condemnation of Confession *per se*, which would make it far more difficult than it already was for Ritualists conscientiously to remain within the Church of England. Lowder was the single most important supporter of this position and was partly responsible for the resolution which was eventually passed.

> Under these considerations, the Society of the Holy Cross, while distinctly repudiating the unfair criticisms which have been passed on the book called the *Priest in Absolution*, and without intending to imply any condemnation of it, yet in deference to the desire expressed by the Archbishop of Canterbury to the representatives of the Society, resolves that no further copies of it be supplied.[16]

But this must be seen for what it was - both a compromise which only gained 28 votes out of 48 (and this from the group of clergy who actually came to the Chapter, rather than distancing themselves completely from the S.S.C.) and a short-term solution specifically aimed at the meeting the following day of the Upper House of Convocation. The Society was still in deep trouble.

What of the press? The Low Church newspapers were baying for the blood of Ritualistic Father Confessors, as they styled them. The Church Times managed to defend the S.S.C. rather lamely, and, not for the first time in our period, the great guns of the Times were directed against the Ritualist Movement, presumably at Tait's behest. The problem, it claimed, was not the Priest in Absolution as such, but the widespread practice of Confession,

of which the book was simply a symptom: "No tardy repudiation of a particular book can undo this broad and scandalous fact."[17] The S.S.C. was certainly not to be given the benefit of the doubt: no partial disclaimer was sufficient to allay the great "public indignation":

> The public at large have the strongest possible objection to the book as a whole - to the principles which underlie each page of it.

Above all, any statement by the Society was to be seen, it was urged, as open to charges of evasion and duplicity, and was prompted merely by the adverse publicity, rather than by any deeper change of heart:

> [They] allow themselves a complicity in such proceedings, and lend them the sanction of their name, until something occurs to shock the public conscience, and then they come forward with an air of innocence and expect us to believe that they were free of all responsibility for what has passed.

But ultimately the view was that the book was bad, the Society which was responsible for it was worse, but that the real enemy to be rooted out and destroyed was the practice of Confession itself. One particularly threatening idea aimed at suppressing the practice was being mooted at the time at the London School Board, and was mentioned by Bishop Jackson of London on the first day of Convocation:

> Notice has been given of a motion to withdraw from all such schools [those connected with Ritualist Churches where Confessions were regularly heard] that recognition of efficiency which entitles them to be reckoned as a regular part of the School system of the Metropolis.

Such was the atmosphere in which the Upper House of Convocation discussed the matter on Friday 6th July. Predictably severe things were said by most of the Bishops, although one or two, notably Mackarness of Oxford, tempered their condemnation of the book with praise for the good pastoral work achieved by many clergymen within the S.S.C.. Marsh sums up the results of the episcopal deliberations thus:

> The outcome of the debate was the passing of a unanimous resolution in three parts. The first held the S.S.C. responsible for the preparation and dissemination of *The Priest in Absolution*; the second stated that the Society had neither repudiated nor effectually withdrawn the book (Archbishop Tait intimated later that he thought all the remaining copies should have been destroyed); and the third strongly condemned any doctrine or practice of confession which could be thought to render such a book necessary.[18]

As important as the actual resolutions passed about the book, was the decision to put off

discussion of any kind of formal censure of the Society itself until after a proper examination of its Statutes. This gave the Society a reprieve from any formal death sentence, for by the time such proper deliberations had been held, public attention had passed on to other matters.

At the time however, this was not apparent to Ritualists. The Times returned to the attack on the day after the Bishops' meeting, now concentrating fire on the S.S.C. rather than its book. The resolutions which the Special Chapter had laid before the Upper House by not condemning the book *per se* implied a full adherence at least to its principles:

> This declaration must have one important effect. It transfers the interest of the controversy from the book itself to the Society of clergymen which thus formally adopts it.[19]

There was, it was urged, no question about what should be done. Confession was "a system utterly abhorrent from the teaching of the Church of England", and the Bishops must suppress the practice immediately. In the meantime, all who taught or practised Confession were to be ostracised:

> They outrage the first instincts of English nature, and they should be scouted as persons who are in a conspiracy to corrupt every innocent and healthy impulse in the young.

It might seem odd to modern eyes that a practice explicitly aimed at the eradication of personal vices was being made to appear to encourage those vices.

Dale and Tooth and other cases

In the midst of such unpropitious events for the Ritualist Movement, however, there had been one or two happier omens. These concerned Dale and Tooth, and indicate that it was distinctly more difficult for anti-Ritualists to triumph through the courts than by the press and public agitation.

Dale had applied on 30th May 1877 for the Court of Queen's Bench to issue a prohibition

against further proceedings in his case on the grounds that Bishop Jackson, as patron of Dale's living, should have had nothing to do with the early stages of the case, and that Penzance had heard the case in the wrong locality. The decision of Queen's Bench was given on June 29th, in the midst of the chaos and polemic occasioned by Lord Redesdale's attack, and thus went largely unnoticed by the press and public. However, it was a considerable victory for the Ritualists:

> The Court, consisting of Justices Mellor and Lush, granted the prohibition on the first ground, adding that it was "unnecessary" for the Court "to decide" the case on the "second ground." Thus all previous proceedings were quashed.[20]

For the first time, it became obvious that the Public Worship Regulation Act contained various pitfalls, and that the lawyers employed by the Church Association were not always able to avoid them.

Lush and Mellor had refused to consider the second of Dale's objections to Penzance's conduct (that concerning the place where he had sat to hear the case), but on 12th July, prompted by Dale's success, Arthur Tooth made application to the same court for a similar prohibition of further proceedings in his case on the same ground, thus forcing a judgement on the matter. Observers were not blind to the significance of Tooth's challenge, since Penzance's jurisdiction was what was under discussion, and the old Ritualist claim that Penzance was not Dean of Arches but merely appointed under the 1874 Act was going to rear its head again.

Tooth's appeal was not to be heard until November of that year, but his application coming after the main public debates on the Priest in Absolution had been concluded, it generated more interest in the press than Dale's rather more significant news had done. Opponents of Ritualism were exasperated by the negligence which had let Dale through the net and which threatened to allow Tooth to do the same. The Act had been designed to simplify and streamline procedures in order to achieve more effective control of Ritualist excesses. It had also been passed at the cost of considerable agitation and "a very troublesome excitement", yet after all this it was still failing to produce the goods.

> There are, it is well-known, no limits to official blundering, but it would scarcely have been believed beforehand that the Public Worship Regulation Act would, at the outset, be put in force with so much carelessness as to render it in one or two important cases null and void, and thus to leave the victory with those against whom it was directed.[21]

The Times attributed a great deal of the blame to the Bishops; not only had they done little about the prevailing Ritualist lawlessness in the Church of England until forced by circumstances to act, but it was down to carelessness on the part of the Bishop of London, or his legal advisors, that Dale had escaped.

> The Bishops themselves are not supposed to be destitute of the habits of men of business, and are credited with sufficient worldly shrewdness. At all events, a Bishop of London and an Archbishop of Canterbury ought to be able to conduct a simple prosecution in their own Courts without rendering it nugatory by an elementary error in point of form.

Tait, too, ought to have insisted that Penzance went through the customary procedures on entering office ("the elaborate form hitherto observed"). It was felt that this might prove fatal to the chances of the anti-Ritualist side when Tooth's application was heard.

A more minor, but still encouraging development for the Ritualist cause at the time was an exercise of the episcopal discretion. The previous November, the moderate Evangelical Bishop of Gloucester and Bristol, Charles John Ellicott, had prevented the prosecution of R.W.Randall in Clifton[22], and now Tait himself used his veto to prevent the prosecution of Charles Boddington of St Andrew's, Wolverhampton (the Archbishop was involved, as he should have been in Dale's case, because the diocesan Bishop was the patron of the benefice). Significantly, this veto was used without Boddington actually undertaking to change his Ritualist ways: he had simply agreed to "provide a plain mid-day Celebration once a month"[23] in addition to his more exotic services.

A week after Tooth's application to Queen's Bench, however, Penzance was himself handing down judgement again, this time unfavourable to the Ritualist side. A certain pattern was emerging in proceedings: generally, it seemed, Penzance condemned the Ritualist defendant, the Privy Council condemned him further, and Queen's Bench overturned Penzance's

decision. But the judgement of 18th July, 1877 was still at the first stage of this pattern: sitting again in the Library at Lambeth Palace Penzance gave judgement against John Edwards, Junior of Prestbury in Gloucestershire. This clergyman, who later changed his name to John Baghot de la Bere in order to receive an inheritance, was a member of the S.S.C., and a salutary reminder that not all extreme Ritualists were to be found in towns and cities. He became Vicar of Prestbury in 1860, in succession to his father, who had held the living for 36 years, and himself remained incumbent, anti-Ritualist persecution notwithstanding, for 24 years.[24]

In his case, the only points on which it was possible for Edwards to offer any resistance to the force of law were the Crucifix on the Altar, and the Eucharistic Vestments. Penzance disallowed the charge concerning the Crucifix, pointing out that it was proper to apply to the due ecclesiastical authorities for a faculty for its removal. Roberts[25] touches on the other point of contention:

> As to the vestments, defendant's counsel contended that no proof of the existence of the Advertisements [of Queen Elizabeth I], relied upon in the Ridsdale judgement, had been given; that the authenticity of the copy in Dr Cardwell's "Documentary Annals" could not be admitted; and that thus the Ridsdale judgement was wanting in authority. The judge rejected these arguments, but, upon application of the promoter, no monition was issued, whilst Mr Edwards was ordered to file within one month a declaration of compliance with the judgement.

This indicated a softening of attitudes among some at least of the partisans of the Church Association: the aim in this case appeared to be to stop Edwards using the Ritualist practices, rather than simply to make an example of him by the punishment he received. However, it was fairly predictable that Edwards would follow in the footsteps of Tooth, and before him Purchas and Mackonochie, simply refusing to comply.

Such was the situation of the Ritualists in July 1877: the Priest in Absolution storm had abated somewhat, but the S.S.C. was still braced for an unfriendly investigation of its statutes. Internal divisions over how to tackle this problem were also still threatening, though on other fronts, some encouragement could be gleaned from some of the legal decisions of the time. The E.C.U, in typical form, responded to the situation by gathering the signatures of 41,000

communicants for a petition to the Queen. This sought to draw attention away from the embarassment occasioned by Redesdale's attack and refocus it on the central legal point, the Ritualist dissent from the recent decisions of the Privy Council. Basically, the appeal was to the action of Convocation unfettered by any secular interference, but the arguments used by the Ritualists against the Privy Council's interpretation of the Ornaments Rubric were summarised:

> Your Petitioners humbly submit to your Majesty that the rubrics of the Book of Common Prayer, as settled by the Synods of Canterbury and York in 1662, and ratified by Parliament, when they refer to the second year of Edward VI., cannot, as is alleged by your Majesty's Privy Council, mean the ninth year of Elizabeth. [...] Such an interpretation amounts to an alteration of the written law of the Church by the sole authority of the Judicial Committee. Your Petitioners represent that they cannot in conscience accept such an arbitrary reversal of the plain directions of the Prayer Book, any more than they can recognise *in foro conscientiae* the authority in spiritual matters of the Court from which the decisions proceed.

Whilst such a memorial did not and could not be expected to have had any direct effect on policy, such numbers of signatories cannot but have impressed those in authority, especially the government of Disraeli, who only interested himself in the anti-Ritualist cause because he considered it to be popular and likely to attract votes. Here was a reminder to him that the suppression of Ritualism might be losing him as much support as it was gaining for him in other quarters. The E.C.U. action in collecting such petitions was also astute in that it provided a means of encouragement to laymen who otherwise felt impotent in the legal battle for Ritualism.

The S.S.C., meanwhile, remained divided. After the Bishops had refrained from censuring the Society in Convocation, instead requesting a report on its Statutes, an exchange of letters between Tait and Bagshawe ensued. The main bone of contention was the destruction of the remaining copies of the offending volume: the best assurance which the Master was able to provide was that all remaining copies were in his custody and would not be distibuted to anyone except the Bishops themselves. As Embry put it, he also

> pointed out the difficulty of a Society, chafing under a popular accusation which they knew to be unjust, in ordering the immediate destruction of a book written by a man whose memory they revered like that of Mr Chambers.[26]

It was against this background that the July Chapter discussed "our Action towards the Bishops", on 10th July. There was an evident resurgence of confidence among the more extreme members. Oxenham's desire to distance the Society from the Priest in Absolution was certainly not shared by the assembled clergymen. A letter from Oxenham, who was not present at the Chapter, was read, giving warning that he intended to propose the following motion at the September Synod:

> That inasmuch as certain parts of the Priest in Absolution, relating to the questioning of penitents, are, in the opinion of this Synod, at least very liable to injurious misuse, this Synod resolves that all copies of the said book now in the possession of the Society shall be destroyed.[27]

Indeed, the Chapter unanimously agreed that it did not wish any such discussion to take place at the Synod: the Society's attitude towards the Priest in Absolution was not in any need of reconsideration. Walsh trenchantly claimed that Oxenham's motion was so unpopular because such discussion risked displaying the Society's disunity, but Walsh contradicted himself by pointing out that

> Notwithstanding this decision of the July Chapter, when the September Synod was held the relations of the Society to the *Priest in Absolution were* very fully considered, as the official report of the proceedings fully shows, though, of course, Brother Oxenham's motion was rigorously boycotted.[28]

A discussion on the action of the Society with regard to the Bishops also occupied much time. Lowder suggested that the appropriate policy might be deduced from the attitude of Bishop Mackarness of Oxford during the session of Convocation: whilst joining in the chorus of disapproval, he had opposed any immediate censure of the Society. Perhaps the Bishop of Oxford was fundamentally friendly towards the Ritualist Movement, and "had moved for a Committee in order to save the censure which was hanging over us"[29]? The S.S.C. should therefore co-operate as fully as possible with this Committee. Specifically, Lowder suggested that Bagshawe should be permitted to go before it on his own initiative in order to explain the aims and nature of the Society.

Lowder's was not the only view among the assembled Brethren; Mackonochie and others wished to follow a more hard-line policy. He understood the attitude of the Bishops in a far

less optimistic light that Lowder: they hated and feared the power of the Society, and wished to destroy it by any means available to them; co-operating with their Committee would simply make the Society more vulnerable than it was already.

Canon Carter, Rector of Clewer, himself shortly to be attacked through the Courts, agreed partially with Mackonochie, although not to the extent which Ellsworth suggests[30]. Indeed, he supported Lowder's suggestion in essence: whilst he held that the Bishops would crush the Society if they could, he hoped that dissension among the Bishops would neutralise their "evident animus".

> There were Bishops, he knew, who hated the way in which they were kept under by the Archbishop, and only wanted to be backed up; and our power against the Archbishop lay in those men being able to show our position [...] Now that we have gone so far, we must not withdraw from the course we have taken.[31]

This "course" was that of co-operation, rather than Mackonochie's proposal for complete refusal to co-operate.

In all this, the members of the S.S.C. were very much out of touch with the reality of the situation. The action of the Bishops, although marked by at least some duplicity towards the Society (for example Tait's failure to warn them of Lord Redesdale's impending attack), was on the whole above-board. Mackonochie was basically accurate in his assessment that the Bishops wanted to close the Society down, and certainly Lowder was off target with his assessment of Bishop Mackarness' position: this seems to have been more fairmindedness than partiality towards the Ritualists. The unreality of the Brethren's attitude is also evident in the simple consideration that the entire sacramental system which they, as Ritualists, upheld relied on the Apostolic Succession and the Episcopate: it is an open question whether this Succession has any real meaning when divorced from its function of guaranteeing true doctrine. Walsh, indeed, brought this out in his comments on Thomas Outram Marshall's contribution to the July Chapter:

> The Rev.T.Outram Marshall (Organising Secretary of the English Church Union) said he could support Brother Lowder's motion, if the powers of the deputation were limited. "He looked upon it as an opportunity to teach the Gospel to those who seldom hear us." This will no doubt be news to many. It was certainly impertinent on

> Mr Marshall's part thus to imply that the Bishops seldom heard the Gospel, and that it was the duty of a secret Society of Father Confessors to "teach" it to them![32]

But it was no doubt difficult for the Brethren in the thick of the battle to discern the paradox implicit in having to defend true doctrine against those who should have been teaching that same doctrine.

Edmund Wood of Cambridge was responsible for a compromise motion which the meeting eventually assented to: going uninvited to present their case before the Committee of Convocation would be like rushing into the lion's mouth, so he suggested that the Master should only go before the Committee *if summoned.* Also, he proposed the revision of the Society's Statutes as a reaction to the involuntary change from being a private to a public body: Walsh, naturally seized on this as an example of the "Jesuitical" reasoning of a typical Ritualist.[33] Wood was anyhow more extreme in his views than the majority of the Society, and was a precursor of the Anglo-Papalists of the 1920s Society of SS.Peter and Paul: at the same Chapter, he and Mackonochie protested against part of a hastily drawn up statement for Convocation to the effect that the Church of England taught that Confession is not a matter of compulsory obligation. Neither agreed with the now usual Anglican statement that "All can, none must, some should" go to Confession; for those in mortal sin, there was generally no other way of obtaining remission of sins.

Such sentiments show that there was still vigour in the growing tip of the Ritualist plant. But there remained the great danger of the S.S.C. being killed off by the threatened flood of resignations: hence the fear of a public condemnation by the Committee of Bishops. There was considerable pressure from individual Bishops in the form of refusals to license clergymen who maintained their links with the Society: one such was Charles Stebbing Wallace, later to be Vicar of the Church of the Ascension, Lavender Hill, who looked to the August Chapter of the Society for advice in such a situation.

> Br Wallace said that the Archbishop of Canterbury had refused to license him to the Curacy of St Barnabas, Beckenham, because he would not leave S.S.C.[35]

Some clergy were being offered a choice between an active ministry in the Church of England and continued association with the S.S.C. - particularly serious if one was an impecunious and unbeneficed curate. Reynolds, as well as stating that between 1877 and 1879, the Roll of the Society fell from 397 to 227 (a loss of 43% of the 1877 membership), comments:

> It was commonly reported that the only bishops willing to license members of the S.S.C. were Winchester (Browne), Oxford (Mackarness) and Worcester (Philpott). Episcopal pressure was also brought to bear on the Society for the Propagation of the Gospel to prevent it from accepting S.S.C. men as missionaries, and on the Additional Curates' Society to cause it to refuse grants to S.S.C. curates.[35]

The state of prejudiced feeling against the Society was exemplified by the refusal of Bishop Goodwin of Carlisle, who had stood by the Society over the abortive attempt to found an Oratory in his Diocese, to license one Henry Holloway to St George's, Barrow in Furness, "except on the condition of your secession from that Society."[36] Characteristically, it was at the same Chapter that the seventy-two year old Archdeacon Denison was admitted to the Society as a probationer, proud to "nail his colours to the mast"[37] at such a time.

The September Synod, where a greater number of members would be present than comprised the monthly Chapter, would be of vital importance to the S.S.C.'s continued survival. Among many preparatory meetings, Embry[38] refers to a Synod of the Northern Province, which took place on 31st August 1877, in the Chapel of Glamis Castle.

> The Sermon, which was preached by the Rev. G.Moor, on "The Truth of God and our Relation as Priests towards It," dwelt on the necessity of bearing "patient, unswerving, uncompromising testimony" to Sacramental Confession, in which there could be "No temporising, no dilutions," for "so long as sinners required absolution, so long must priests urge confession."

The Scottish Brethren thought that it had been a mistake to allow the English episcopate to examine the Statutes, although favouring a revision of the Statutes by the Society itself. As for the Priest in Absolution, although its publication in English had been unwise in the first place, the Synod

> wished at the same time that an intimation could be conveyed to the English Bishops that, S.S.C. being a purely private Society, their judgement on its books was not invited.

The Scottish Brethren also felt that if their own Bishops acted in the same way as the English

ones were doing, they would have no alternative but to disband completely as a Society. Thus the Northern Synod prefigured the two main options which the September Synod had to deal with - revision of the Statutes or disbanding the Society, at least for a time.

Both of these options were effectively cosmetic - those who wished to revise the Statutes wanted to present a more acceptable face to the outside world and thus preserve the Society from episcopal censure, whilst those who wished to disband entirely aimed to form a new body with the same outlook as the exising Society, thus avoiding censure in a different way.

Bagshawe proposed that the Society should disband, and this was immediately opposed by Mackonochie on the grounds that no notice had been given of this motion. It was clearly going to be a hectic two days of heated debate: proceedings began each day at 9am and lasted until 7pm[39].

William Hutchings and Edgar Hoskins proposed that:

> In the opinion of this Synod it is advisable that a Committee be appointed to consider the form of the Society's Statutes, with a view to modification or otherwise.

Hutchings quoted Pusey's opinion that it would be foolish to disband. To dissolve would be apparently to acknowledge that the Society had been in the wrong - and would destroy "the great instrument we had for promoting the Catholic Revival in this country," whereas revising the Statutes would provide a tactical delay. The Bishops' Committee could no longer consider the old Statutes and would have to wait for the new ones to be formulated before making any kind of judgement. Walsh said of this:

> This was a clever scheme [...] mainly intended to "draw a red herring" across the trail of the Bishops.[40]

Hutchings' motion was then attacked by Knox-Little, author of many devotional works and to be a well-known name in later years as a Canon of Westminster Abbey; he opposed any alteration in the explicitly Catholic language of the Statutes, and urged the Brethren to get things in proportion - the important thing was not that the S.S.C. *per se* should survive, but

that Catholic faith and practice should be carried on within the Church of England. Wood then introduced his motion in support of Bagshawe's suggestion to disband the Society. He was both a skilled legal mind and an uncompromising Ritualist, and his motion was an undisguised means of ensuring the Society's survival under another name - "by which scheme the general public would be led to suppose that it had ceased to exist altogether."[41] So, the members of the old Society would still be subject to "the obligation of confidence as regards past proceedings of Synods and Chapters and of this Synod", and the trustees (the former Master, Secretaries, Treasurer etc.) could and should

> invite to informal conference all whose names shall have been upon the Roll of the Society on the 14th September, 1877, as well as such other priests as they may choose.

If such an "informal conference" were to form any Society with similar objects and like constitution, the trustees were to be able to transfer the S.S.C.'s property to this new body.

There was some debate about whether the amendment was in order and Bagshawe's authority was openly flouted by Nihill and Marshall on the question. Of the others who spoke, six were opposed to the idea of disbanding and two only were in favour. At least one of Wood's supporters, Canon George Body, completely misunderstood Wood's motives, interpreting the amendment simply as an admission of defeat:

> Br Body spoke strongly in favour of disbanding. He gave his reasons for having remained in S.S.C. under its altered circumstances. The rule was a help to him. He desired to fight shoulder to shoulder with those who were fighting the same battle; but now he thought that the work of the Society could not be continued without great injury to the Church.[42]

Arthur Hawkins Ward of the Seafarers' Church in Bristol also supported Wood, holding that a temporary dissolution of the Society was the only way in which "the censure of the entire Episcopate" might be averted. At least he had understood the nature of Wood's suggestion.

Those who opposed Wood (Goldie, Puller, Mackonochie, Marshall and the new recruit Archdeacon Denison) represented two rather different attitudes. Goldie, Puller, and to a lesser extent Marshall, were rather more conciliatory and optimistic than Mackonochie or

Denison. Goldie, thus, moved - and Puller seconded - an amendment that the Society should reassure the Committee of Bishops that Master's Council would be eager to "consider any recommendations which may be made by their lordships".

Marshall alleged (it is not clear with what evidence) that various nameless Bishops supported the S.S.C.. These, he claimed, wanted the S.S.C. to revise its Statutes, specifically so that the Committee of Bishops would be unable to reach a clear decision and thus "this storm, like many others, would pass away." Whether his position in the E.C.U. afforded him "inside knowledge" or whether he was just being optimistic (hence his surprising vagueness - "five or six Bishops"), the fact remains, as Walsh pointed out, that:

> In this Mr Marshall was a true prophet. The Statutes *were* revised; but rejected by the Society afterwards; the Archbishop did not press the matter; the storm passed away, and the Society went on its way rejoicing, mainly, I have no doubt, through the treachery of these five or six Bishops.[43]

But such conspiracy theories lend a spurious order to the randomness of events. Walsh was trying to account for the embarassing failure of the Church Association to defeat Ritualism and Marshall's wishful guesswork - and its subsequent accuracy - was too useful as evidence to be ignored.

Mackonochie and Denison were more straightforward in their militancy. The former Master held that the Society could not dissolve itself without a unanimous vote: members could resign their membership, but those who remained would still constitute the S.S.C.. Mackonochie's point was not merely theoretical: it was a practical threat. If a majority voted to dissolve, a rump which refused to go along with this decision would be formed around Mackonochie and an unseemly dispute would spring up between this body and the trustees envisaged by Wood's scheme.

Denison's was fighting talk too, and since Coombs does not give it, deserves to be given in full as a typical example of the old man's enthusiasm for the cause to which he had been converted:

> What advantage could there be in disbanding? We should part with some of the most precious things we possessed, and should gain nothing. He had turned towards that Society, believing that the Brethren, at any rate, would stand firm. As to a Synodical condemnation, he laughed at it! On the vote of *this* Synod, he believed, hung the hope of the Catholic Church of England. We had heard very much about episcopal condemnation, but such a condemnation would be based upon Protestant principles. Our attitude should be, 'You shall kill me, if you choose, but you shall not stop me.'"[44]

The proposal to revise the Statutes attracted support from both extremists and conciliators. Goldie having withdrawn his amendment, avoiding any split, Wood's amendment was defeated by an overwhelming majority (sixty-seven against nine) and Hutchings' original motion was passed by forty-one to twenty.

All this occupied the first day of the Synod. Bagshawe's authority was rather battered already, but the second day's debate was to prove more painful for him. This was the discussion on what exactly the Society should do about the Priest in Absolution itself: they had dealt with the Bishops, now they would deal with the book.

Bagshawe had undertaken not to circulate the book in future, and favoured the destruction of the remaining copies. But Orby Shipley defied his wishes by proposing:

> That in consequence of the evil effects which have ensued from the private circulation of the *Priest in Absolution*, the bad use made of its contents, and the false charges founded upon garbled quotations, it is due both to the memory of its compiler, and to the character of its owners, that the work be published in the ordinary course of trade, and this Synod hereby authorises the same.[45]

This would have been to defy the Bishops and could only have been justified as attack being the best form of defence, but Shipley's point was that if the Society had nothing to be ashamed of, then it should stop behaving as if it did have. The anti-Ritualists were full enough of talk of conspiracies without the prospect of a secret or at least secretive Society attempting to cover its tracks by supressing its secret books.

Shipley's motion was seconded by Nihill. Immediately, an opposing amendment was proposed by Walter Macfarlane and seconded by Goldie, to the effect that since the book had been withdrawn from circulation, "the copies in the possession of the Society be at the disposal of

the Master". As with the business of the previous day, there was a complex range of opinion. Thus it was only after some time that Bagshawe clarified that:

> The amendment meant that the book should be destroyed privately, without casting any stigma upon the author. He maintained that, as honourable men, we could never put the book out again.

Mackonochie supported Shipley and Nihill's hard-line motion, thinking the book "a most useful one for young priests", whilst at the other end of the scale Richard Rhodes Bristow of St Stephen's, Lewisham stated:

> If the book were published, it would be prosecuted [...] as an obscene book. We did not want the book. Dr Pusey was bringing out a work on Moral Theology. He would therefore instruct the Master to deal with the book as with waste paper.

As Walsh commented, the book he referred to was only a different (and more accurate) version of a continental manual by the Abbé Gaume[46], so to that extent Bristow was inaccurate. One might be tempted to see his claim that the Priest in Absolution would be prosecuted as an obscene publication as an equally inaccurate overreaction, but given the vagueness of the legal definition of obscenity and the anti-confessional mood of the day, it was certainly a possibility.

However, there were many who occupied the middle ground, opposing both the original motion and the amendment. They wished instead to maintain the *status quo*, neither destroying the remaining volumes nor daring to "publish and be damned". This opinion eventually won the field, with neither motion nor amendment gaining majority support; the embarassing situation was, however, largely Bagshawe's fault for undertaking to destroy the book without proper consultation first, and he now decided upon resignation.

This was not known to the members of the S.S.C. until the following month. Meanwhile, what was the state of play in the anti-Ritualist prosecutions? Naturally, the attention of the press and public was focussed on the Priest in Absolution, but legal processes continued, as did less subtle forms of agitation. There had been both defeats and victories: the Bishop of London had suppressed Ritualist practices at S.John the Evangelist, Hammersmith, causing protests

from the congregation. 137 communicants signed a petition not only asking for their lights and vestments back but also protesting against the Ridsdale Judgement *per se.*[47] But the clergyman in question had submitted to his Bishop despite the overwhelming support of his congregation. This led the Times to comment that:

> We should not be without hope, in fact, that this ceremonial storm might subside, were it not that the main issue between the Ritualists and the Church is now aggravated by the far more important question which the discovery of "The Priest in Absolution" has raised.

Conversely, there was a minor Ritualist victory at the start of September 1877: in Lichfield Diocese, complaints had been lodged against Edward Glover of Christ Church, Wolverhampton for the use of lights, coloured stoles, wafer bread, the mixed chalice and the eastward position. Glover was by no means an advanced Ritualist, but it was nevertheless a small triumph that Bishop Selwyn refused to allow the case to proceed:

> Knowing, as I do, the mind of the present Vicar of Christ Church on the question to which your memorial refers, I am certain that, in adopting the ritual which he found in use, he has not been influenced by any spirit of disobedience to the law, but simply by a tender consideration of the feelings of a large number of communicants.[48]

The message was that the most important factor in any such equation was not necessarily the physical transgression of the law, but the disposition of the clergyman in question. The complainants understood this all too clearly, and questioned "if it is desirable for a Bishop to wink at a breach of the Law, even from motives of charity and tender consideration."

At the next S.S.C. Chapter, on 16th October, Bristow first drew the attention of the Brethren to an ultra-secretive and potentially dangerous new Ritualist body, the Order of Corporate Reunion[49]. But attention was concentrated rather closer to home, for it was at this Chapter that the strength of Bagshawe's discontent with the deliberations of the September Synod became apparent to all and sundry. He was not present at the Chapter, but a letter from him was read out: he felt that the Synod had "distinctly negatived" his policy. He considered himself to be duty bound to destroy the remaining copies of the Priest in Absolution and the Synod had refused to allow this. His first thought, he said, had been to resign at once, but he had decided to put this off until after the Statutes had been revised. But he was clear that he

would not lead the Society in a "policy of resistance" to the Bishops.[50] Walsh commented not inaccurately that "a letter such as this must have been a bombshell in the Society, and have added greatly to the difficulties of its position."[51] The members were anxious to prevent Bagshawe resigning and went so far as to vote their "continued and clear confidence" in him as Master, but the damage had already been done and the vote of a small body of the Society's élite could not make up for the disregard of his authority shown by the much larger and more representative Synod the previous month.

In November 1877 the Tooth case came to a conclusion: the Court of Queen's Bench sat on 19th November[52] to hear the arguments for Tooth's application for a prohibition against Penzance on the ground of lack of jurisdiction, as he had failed to sit at any of the places designated in his instructions from the Archbishop of Canterbury. This was important as a legal precedent, because the arguments about where Penzance could and could not sit had not been heard in Dale's application in June of the same year, since Dale's application had been granted on another technicality (that the Bishop of London as patron of Dale's benefice was disqualified from acting in the case). It also had the effect of confirming what the Ritualists had been saying about Penzance's *status*: was he acting as Dean of Arches or as a judge appointed under the Public Worship Regulation Act? Roberts summed up the arguments presented for Tooth:

> The objection raised, on behalf of Mr Tooth, was that whilst the requisition directed Lord Penzance to hear and determine the matter "at any place in London or Westminster, or within the said diocese of Rochester," the Judge heard the case in the Public Library at Lambeth Palace. On the other hand, it was argued by Mr Benjamin, that Lord Penzance was Dean of Arches, and that, the case being heard within the Province of Canterbury, the exigencies of the Statute were satisfied. The Court held that "although this is a matter of the purest technicality, it goes to the root of the jurisdiction"; that "this act is the foundation of a new jurisdiction"; that "it is not as Dean of Arches that Lord Penzance has this jurisdiction".[53]

This was exactly what the Ritualists had been saying ever since the passing of the Act: bolstered by Penzance's refusal to take the customary oaths, they had argued that he was not the holder of the ecclesiastical role of Dean of Arches, but of a position which Churchmen should not acknowledge because created entirely by secular authority. Tooth after all his sufferings seemed to have obtained legal confirmation of this.

The Times[54] suggested that no one came out of the case particularly well, but grudgingly acknowledged that Tooth might have obtained a degree of sympathy among the general public:

> The public are always glad to see a rat get out of a trap, and they will not, therefore, grudge Mr TOOTH his rather undignified escape.

But strong condemnation was reserved for the incompetence of those in charge of the administration of justice for making such a technical error allowing this particular rat to escape.

> It is impossible, indeed, to reprehend too strongly the gross carelessness which alone permitted the objection to arise. [...]
> It will be well if the Public Worship Act *[sic]* itself escapes some damage to its authority, and it is certain that a more reckless waste of new statutory powers could not possibly have been exhibited.

Although all the *furore* surrounding the Priest in Absolution had been entertaining, such a defeat in the anti-Ritualist struggle was more important, serving to discredit the legislation which was supposed to be crushing the Ritualist Movement.

The following day, 21st November 1877, Tooth wrote to Tait resigning his benefice. He explained that he had fulfilled his duty to the Church of England by obtaining legal proof of the secular nature of Lord Penzance's office and added that his duty to his congregation dictated that he should resign, and thus free them from their difficult position. This decision was assisted by the knowledge that the patron of the benefice, his brother, would appoint a suitably Ritualist successor. As for those responsible for his prosecution:

> In reference to those who have caused the distress in my parish and are responsible for the legal proceedings, and are moreover for the moment liable to a series of actions for damages for false imprisonment, I would say that no compensation can ever atone for the wrongs they have inflicted on my parish; but it is not my intention to estimate them by reference to a jury.[55]

He also pointed to his "broken" health as another reason for resigning - and the persecution which he had undergone does indeed seem to have taken its toll, although he was to survive until 1931, his last public appearance being deservedly triumphant:

> No more dramatic event has occurred in the history of the Movement than when he walked out, bent with age, to take part in the High Mass on Stamford Bridge Football Ground during the Anglo-Catholic Congress of 1930. The shout of welcome was one of the great authentic shouts of Church history [...] massed choirs [...] a vast company of priests in robes; ranks of servers in scarlet and fine linen [...] and thousands of lay-folk [...] looking down upon the arena, upon the sacred ministers in golden vestments, the bishops in copes and mitres - all combined to make such a scene as Arthur Tooth could never have imagined on the desolate day when he left the prison.[56]

Naturally, Ritualists were grateful to Tooth for his stand, although those not directly conversant with the conditions in his parish tended to wish that he had continued to minister there. The next S.S.C. Chapter, on 11th December, 1877, passed a vote of thanks to Tooth, and the Ordinary Meeting of the E.C.U. two days after this concentrated on the theoretical implications of the judgement:

> This meeting of the E.C.U. observes with satisfaction that the recent judgement of the Court of Queen's Bench, in the case of the Rev. Arthur Tooth (in which all the Judges were agreed) entirely confirms, from a legal point of view, the position taken by the E.C.U. in regard to the P.W.R.Act, and the Judge appointed under its provisions.[57]

The conclusion was that the Ritualists would continue to pursue their policy of conscientious non-recognition of the Act's secular interference in Church polity.

There was no let up in the anti-Ritualist attack: within a fortnight of the end of Tooth's case, the rather different martyrdom of Arthur Hawkins Ward began. On 8th December 1877 Ward, who had been ministering at the "Sailors' Chapel", Saint Raphael's, Cumberland Road, Bristol since 1865, was required by Bishop Ellicott of Gloucester and Bristol, to discontinue a number of Ritualist practices (Roberts lists vestments, lights, mixed chalice, incense, genuflexion, elevation, and Sign of the Cross[58], whilst Father Cobb[59] adds the "illegal ornaments" the Stations of the Cross and a Crucifix.). All this "without a word of warning or remonstrance of any kind" and upon the complaint of three anonymous inhabitants of the Parish in which the (non-parochial) Chapel was situated. An exchange of letters between Ward and Ellicott, subsequently published by the Ritualist[60], failed to advance the situation, with the result that the Bishop issued a monition against Ward at the end of January. Its effect was drastic:

> There was an entire change in the services on Sunday. For the first time since the Church was opened - a period of nearly 19 years - there was no celebration of the Holy Communion and the Ritualistic practices which have hitherto prevailed were abandoned.[61]

Ellicott claimed Ward's inhibition was self-inflicted, since, during the January correspondence, he had solemnly enjoined him

> not to allow any private views you may have as to what has or has not a bearing on the historic position of the Church of England to induce you to withhold the Sacrament of the Body and Blood of Christ (to be administered with due regard to the terms of the monition) from the worshippers in the Sailors' Church.[62]

It was only as a result of Ward's suspension of all services at his Church that Ellicott formally withdrew his licence. The anti-Ritualists had perhaps won a Pyrrhic victory, nevertheless, for the closure of the much loved little Church attracted widespread sympathy and support for the clergyman, including the setting up of a local League of Saint Raphael to pray daily for Ward and the reopening of his Church[63] and the rather more practical help accorded by the institution of a Special Sustentation Fund to offset Ward's loss of an income of about £280 *per annum*.[64] A feature of the case which rendered observers more sympathetic was the length of time the Chapel did in fact remain closed - "fifteen long years". Cobb's excellent pamphlet on The Oxford Movement in Nineteenth Century Bristol concludes the story:

> More surprising and certainly more magnanimous was [Bishop Ellicott's] decision in 1893 to consecrate the church of St Raphael and to institute Ward as the first incumbent. According to Fr Irving who wrote a brief memoir of Ward, this happened "through the intervention of an influential friend" whose identity is unknown. The Bishop sent for Ward. "He referred but briefly to the events of 1878, only observing 'The Holy Ghost has had much to teach us in the Church of England during these years that are past', and telling [Ward] that he was able to regard him as a loyal priest of the Church of England though he might not be able to see all things eye to eye with him."[65]

At the same time that Ward was suffering this persecution, however, Ritualists were encouraged by Tait's refusal to overturn the Bishop of Lichfield's decision in the case of Edward Glover of Christ Church, Wolverhampton[66]. Tait, who in the course of 1877 seemed to have adopted a rather more conciliatory attitude towards the Ritualist problem[67], agreed with Selwyn that Glover's undertaking to hold additional services in strict conformity with the supposed dictates of the Prayer Book constituted quite enough of a "loyal submission" to be acceptable. The message was that compromise rather than suppression was

the order of the day for Ritualism.

Tait's decision about Glover came in mid-January 1878. This year saw continued attempts by the Church Association to destroy Ritualism through the Courts, with distinctly equivocal results: a number of legal battles took place concurrently, and in a chronological narrative of events, such as this, it is sometimes difficult to see the wood for the trees. Despite the various dissappointments which the Church Association had already suffered, there was no lack of vigour in the many attacks on Ritualists during the year: but also the Bishops evinced a distinct unwillingness to allow these complaints to come to court. Discernable too was an increasing messiness in those cases which did slip through the episcopal net, a continuation of the tendencies apparent in the collapse of the Tooth and Dale cases. With hindsight, the battle was going against the Church Association in 1878, but all that was apparent then was a number of confused skirmishes producing a variety of results both favourable and unfavourable to the Ritualists.

Early in 1878 the protracted legal activity surrounding Mackonochie entered what Reynolds called its "final phase". Already Martin *versus* Mackonochie was a byword for legal complexity, and despite the intention of the Act's framers to cut such Gordian knots, the resumption of hostilities at S.Alban's was to create confusion. Indeed, the course pursued in this case was in complete disregard of the 1874 Act's very existence.

On 23rd March, 1878, John Martin, the Church Association's agent in the earlier case against Mackonochie, applied to Penzance, in the latter's now discredited capacity as Dean of Arches, for an enforcement of the judgement which had been passed on Mackonochie almost four years before by Sir Robert Phillimore. It was a matter of common knowledge that Phillimore's judgement had been consistently ignored by its subject, and to support this fact Martin produced several affidavits before Penzance. Mackonochie did not appear for this hearing, and, despite the judge's decision to give him a "last chance" in the form of a Monition, the expectation of many observers was that this renewal of legal activity would lead

almost immediately to Mackonochie's imprisonment:

> It is fully expected at St Alban's that, if Mr Mackonochie does not, in the words of Lord Penzance "conform to the ecclesiastical law and his duty," the "severe step" which his lordship promises will be to send the Rev Vicar to the Middlesex House of Correction under the same process by which the Rev Arthur Tooth was sent to Horsemonger Lane Gaol.[68]

When the Times came to comment on Mackonochie's case there was an impartial distribution of criticism. Penzance was attacked for allowing Mackonochie to ignore the 1874 judgement against him and consequently it was to be feared that the new Monition "may well be no more fruitful in its penal consequences than its ancient predecessor"[69] This criticism was hardly fair, given that ecclesiastical courts functioned only when application was made to them, rather than of their own mere motion. So Martin was criticised for not taking action sooner. By implication, too, the Church Association were wrong to have taken the action in the first place: ecclesiastical lawsuits "should be instituted only after the most careful deliberation, but once commenced they should be prosecuted quickly."

As for Mackonochie, he was searching for "martyrdom" and its attendant propaganda value, he was flouting the law of the land, and he was mistakenly advocating Disestablishment as a remedy for the situation. The question of Disestablishment was one upon which there was no degree of unanimity among the clergymen of the Ritualist party; yet Mackonochie had recently held forth on it in the pages of the journal *The Nineteenth Century*[70]. His advocacy of this cause was foolish, it was suggested, since not only would the Church suffer a loss of status and financial backing were any such scheme to proceed, but:

> One of the first measures to be taken by a free Church of England would probably be to offer the Ritualist section of the clergy the choice between conformity and expulsion.

The article also attacked the Ritualist party as a whole: it was undermining the parochial structure of the Church of England. The Ritualist place of worship attracted an eclectic congregation, rather than catering simply for all the church-goers in a given area, and as such the Ritualists were "rushing headlong into congregationalism". The provision of worship which was not to the tastes of all parishioners was especially serious in the countryside, where its

effect was "to deprive them often of the sole place of worship to which they have access," but in the urban setting of St Alban's, Holborn too, the Church seemed to exist for purposes other than the care of its own parishioners. The article has its sociological interest:[71]

> Parishioners and congregations are there very different things. Its congregation is made up of two elements. There are the idlers who come to see its albs and copes, and all the other strange and wondrous garments, of which the list reads like DARIUS's [*sic*] instruments of music in the book of DANIEL; and there are the disciples who come from remote quarters to admire and adore the idols of ecclesiastical tailoring. Outside in the dark are the actual parishioners, a vast Irish camp which stares bewildered or mocking at the mimicry by this eccentric English colony of their hereditary religious observances.

The press had attacked Ritualism from this angle before: a mere three years after the opening of Mackonochie's Church, the same newspaper had sneeringly remarked upon the "decidedly fashionable society" to be seen there:

> The spirit of devotion that pervades the whole assembly is remarkable, and foremost, perhaps, among the devotees are young men of nineteen or twenty years of age, who seem to have the intricacies of Ritualism at their fingers' ends.[72]

That there was an element of truth in this was indicated by the Ritualist G.W.E.Russell:

> More especially, as time went on, the characteristic noted by the *Times* - the number of young men in the congregation - became more and more conspicuous. Pious women there were in abundance - was there ever a church where they did not congregate? - but St Alban's was from the first a Man's church, and a Young Man's Church before all.[73]

No doubt the pious young men supported Mackonochie in his refusal to recognise the new Monition and waited with some excitement for the next move in the drama.

At almost the same time, there were developments in the case against John Edwards of Prestbury: Penzance had given judgement against him the previous July and had ordered him to file a legal declaration of his compliance with this judgement within a month. He failed to do this, and on 9th March 1878 Penzance, sitting in the Palace of Westminster, pronounced a decree of suspension *ab officio et beneficio* for six months against Edwards, subject to the filing of an affidavit proving that Edwards had not discontinued the Ritualistic practices in question. The pronouncement of the suspension had been delayed until this point because doubts had been raised about whether the Palace of Westminster was within the Archbishop

of Canterbury's jurisdiction, and now its imposition was further delayed by the failure of the complainants to file the requisite affidavit in time. The case was hardly progressing smoothly. A second decree of suspension was accordingly pronounced on 23rd March, with the Church Association this time managing to comply with the conditions.[74]

Edwards ignored the suspension and continued to take services in his Church. At the start of April, following Tooth's example, he turned away Bishop Ellicott's nominee who had been sent to take services during the six months' suspension. As with so many other clergymen in similar situations Edwards found himself under some threat of mob violence: on Sunday 7th April his Church was "crowded with hundreds of expectant visitors from Cheltenham"[75], and, before the sermon, there was "indescribable confusion" when he attacked the people's churchwarden for having attempted to change the locks to prevent his entering the Church. He managed to disappoint the mob by holding Evensong in the early afternoon while the would-be rioters were absent at lunch: this disappointment, together with the logistical inconveniences of the journey from nearby Cheltenham, effectively nipped the threat of violence in the bud.

Edwards continued to occupy his Church and to ignore all Penzance's judgements against him, although now imprisonment appeared likely:

> On May 11, upon the application of the promoter, Lord Penzance pronounced Mr Edwards contumacious. This, he said, would be signified to the Court of Chancery, but the decree would not be drawn up until a supplemental affidavit had been filed, showing service of the notice of motion.[76]

Mackonochie and Edwards were veterans of the struggle for Ritualism, but as the Lent of 1878 gradually melted into Easter, two other clergymen were experiencing their first taste of litigation. The first of these was Richard William Enraght. This clergyman (died September 1898) was a graduate of Trinity College Dublin (1860) and had become a fervent Ritualist during his third curacy, alongside Father de Romestin at S.Paul's, Brighton between 1869 and 1872. After a short spell as Curate-in-Charge at Portslade-by-Sea, just along the coast, he accepted the living of Holy Trinity, Bordesley Green, Birmingham in 1874. He wrote a

number of controversial pamphlets, including a Statement concerning his prosecution[77], and it was in this that he started by correcting a popular misconception that his present Church was "pleasantly situated in the country, some miles removed from Birmingham"[78]. His parish was an urban slum parish; it was also an established place of Ritualist worship. His predecessor, Dr John Oldknow, had in fact been under pressure from Bishop Philpott of Worcester to moderate his Ritual observances at the time of his death in 1874, and Enraght believed that he had accepted the living on the understanding that the Bishop

> was determined to stand by me so long as I did not innovate upon the well-known opinions and practices of my [...] predecessor.

Enraght was left in comparative peace for three years, allowing him to continue with the parish's customary Ritual. The attack which he underwent in 1878 came out of a clear sky. The first step was the packing of the annual Vestry meeting to elect a Church Association member named John Perkins, as Churchwarden. Perkins then commenced a twofold attack on Enraght, using all his efforts to excite public opinion in the Parish against Ritualism, and at the same time presenting the Bishop with a list of charges against him, requesting that Philpott should use his fatherly influence to induce the clergyman to desist from his alleged illegalities:

> Immediately after Easter, 1878, Mr Perkins, acting under the counsel and direction of the misnamed "Church Association", commenced a series of annoyances to me and the Congregation and Parishioners - including five inflammatory Lectures, and Sermons, in the immediate neighbourhood, repeated circulation at every house in the Parish of "Church Association" and other abusive literature, repeated placarding of the Parish against me, a self-styled "Parish Committee" constantly meeting to concoct plans of injury, and other efforts.[79]

Enraght adopted a position of dignified indifference, but sought to defend himself to the Bishop as soon as he knew of the charges. His defence was fourfold: (1) the Ritual was more or less exactly how Dr Oldknow had left it, (2) some of the charges were simply untrue - including "prostrations"[80], the elevation of anything other than the "decent basin", hiding the manual acts from the congregation, and the wearing of Birettas, (3) that he had always sought to cater for the spiritual needs of all his parishioners - in this case by provision of a "plainer service":

> I should have celebrated it with even more plainness than at present, had I had any

> reason to think such would be acceptable to any persons. But the objectors, *more suo*, have not attended it.

and (4) he gave an impressive array of general statistics showing how his ministry was producing a steady increase in baptisms, communions, confirmations and collections.

Philpott ordered Enraght to give up altar lights, the chasuble and alb, the mixed chalice and the sign of the Cross in the Communion service.

> As the two first of these four points are commanded by the Ornaments Rubric, with unfeigned and deep distress I expressed my inability to conform to the Bishop's "Direction" on those two points. But I expressed my readiness to conform myself on the other two; considering that, although I believed I had a right to continue them, yet possibly it came within his canonical discretion to prohibit them. I added that I believed to obey my Bishop, if possible, was my plain duty.[81]

But Philpott required obedience rather than negotiation, and further offers of compromise proved equally unacceptable. A deadlock ensued for the remainder of 1878, but Enraght knew that he would not be left to his own devices for long.

The other clergyman who first began to be attacked by anti-Ritualists at this time was to become even more of a household name that Enraght, Sidney Faithhorn[82] Green. A graduate of Trinity College, Cambridge, Green had been Rector of S.John the Evangelist, Miles Platting, an urban district of Manchester, since 1869. Like Enraght, Green's ministry was situated amongst the dirt and deprivation of an industrial city, but unlike him, he had inherited a church with an evangelical tradition and had singlehandedly transformed its worship to a Ritualist model. Equally, through the decade since his appointment as Rector, he had grown steadily more intransigent, as had many other clergymen in response to the Purchas Judgement and the 1874 Act.[83]

At about the same time as Enraght was first experiencing difficulties, a petition signed by over 300 people who claimed to be parishioners was sent to Bishop Fraser of Manchester complaining about illegalities in Green's conduct of divine service. Fraser asked for a fuller statement of their grievances, and it was at this early stage, that a formal complaint was

presented by three parishioners under the terms of the Public Worship Regulation Act. This was another typical Church Association attack in which ultra-Protestants attempted to stir up the feelings of parishioners previously content with their incumbent.

The S.S.C., meanwhile, still felt the effects of the Priest in Absolution outcry of the previous summer: Bagshawe still reluctantly occupied the Master's stall when the May Synod met. He had already made clear that he wished to resign, and the discussion at the Synod was not calculated to alter this determination. Most of its time was taken up with the business of the report on the Statutes prepared by the committee set up in the previous September, although the Priest in Absolution was itself the subject of further discussion, again flouting Bagshawe's wish that it be destroyed in order that he might be seen as keeping his word to the Bishops. The report on the Statutes was not unanimous: Mackonochie, Nihill and Biscoe opposed all proposals to moderate its language. However, the majority, although defending the terms which the Statutes employed (i.e. "Mass", "Sacrament of Penance", "Roll of Celibates" etc.), nevertheless recommended that these words should be replaced by less controversial terms "in the interests of peace"[84]. This was to conciliate the Bishops who were, in theory at least, still awaiting the revised Statutes in order to investigate the Society. Walsh was rather blunter:

> It is therefore quite certain that this precious Report in reality withdrew nothing but empty names, and was primarily intended for the purpose of throwing more dust in the eyes of the Bishops. It was worthy of a conclave of Jesuits rather than of a committee of clergymen within the Reformed Church of England.[85]

The ensuing debate showed that the members who were present (and not among the 122 resignations received over the last year) were fairly evenly divided on these proposals. Bagshawe favoured the conciliators, as did Bristow, who described the editing out of potentially offensive terms as "drawing back [...] in order that we might strike a harder blow".[86] The hard-liners were equally influential: Mackonochie, Edwards and John William Kempe all presented the same case:

> Disallowing any mention of expediency in a Society dedicated to the Holy Cross, and warning against the danger of changes made during panic, they urged the Society to stand firm, and pointed out that steadfastness in the Faith implied steadfastness also in the Church's expression of that Faith. They pointed out that, if the proposed verbal changes were effected, they would be interpreted in the public mind as giving up the Faith, while it was certain that, if S.S.C. went back, the faith of very many in the

English Church would be shaken.[87]

Besides, the whole purpose of the revision was to delay the scrutiny of the Bishops until the pressure had somewhat abated; this was now the case and the S.S.C. could go on as before.

The vote was narrow, with 51 voting for, and 58 against Bristow's motion that the report should be adopted in its entirety, and 57 voting for, and 51 against, Kempe's motion thanking the Committee for their labours but declining to admit any of their recommendations. This result was a reassertion of the S.S.C.'s role as a home for hard-line Ritualists.

Bagshawe's humiliation continued the next day when the Brethren received a protest signed by Mackonochie, Edwards, Denison, Nihill and twelve others:

> We, the undersigned Brethren and Probationers of the Society of the Holy Cross, being, as members of that Society, part proprietors of a certain property consisting of a number of copies of the *Priest in Absolution*, do hereby refuse and withhold our consent to the destruction of that property; and we do hereby protest against any discussion upon the question of destroying that property in this Synod, on the ground that such destruction, without the consent of us as part proprietors, would be an illegal act.[88]

Nevertheless, the matter was discussed, but a sizeable majority voted against the book's destruction. The matter was closed so far as the Society was concerned, and it was able to proceed on its way, stripped of its weaker members, but with its principles intact. Bagshawe resigned and left the Society shortly afterwards. He died in the following year.[89] Canon Thomas Thelluson Carter, who had been Rector of Clewer in Wiltshire since 1844, and had produced an impressive number of published works - 107 of them are listed in the British Museum Catalogue of Printed Books - was elected as Bagshawe's successor. Embry said of him that "there was no priest more esteemed by all men of good will in the Church for his saintliness of character"[90]. His Ritualism was of a pronounced and yet balanced type: his attitude towards ceremonial was distinctly English, not to say anti-Roman, at least when concerned with the position of the Roman Catholic Church in England: his main enthusiasms were for the unseen, unglamorous aspects of the Catholic Religion - the Confessional and the religious life. He had gained the emnity of the persecuting party through his strong support

for Sisterhoods in the Church of England; the Community of S.John the Evangelist, which he had founded in 1851 and continued to superintend, working with "Mother Harriet" (Harriet Monsell, of whom he was later to write a biography[91]), constituted a particularly flourishing example of the resurgent Anglican interest in the religious life. He had been a member of the S.S.C. since 1859, and guided it wisely both during the year he was Master and during the period which followed when Mackonochie resumed the Mastership but was failing in vigour. He was also under attack in the courts: in July 1878 a complaint was lodged against Carter by a certain Dr Julius, under the Church Discipline Act. That the older act was summoned up from Sheol like the Prophet Samuel was a mark of the Church Association's growing realisation that the Public Worship Regulation Act was a clumsy weapon difficult to wield effectively,

The case against Mackonochie continued to prove difficult: he ignored Penzance's Monition, issued in March, and on 11th May, John Martin renewed his application to the judge, producing further affidavits proving that the Vicar of S.Alban's had continued to use the condemned ceremonial[92]. On 1st June, Penzance suspended Mackonochie *ab officio et beneficio* for three years - the same punishment which John Edwards was happily disregarding at Prestbury.

Mackonochie, acting with the advice of E.C.U. lawyers, responded on 5th June by following Tooth's example and applying to the Queen's Bench Division, in this case for a "rule calling upon Lord Penzance to show cause why a prohibition should not issue against his proceeding to enforce his decree of suspension"[93]. Whilst his refusal to countenance the regular appeal to the Privy Council was motivated by his refusal to recognise either Penzance as a properly appointed Dean of Arches or the Judicial Committee as a fit body to act as a court of appeal in ecclesiastical matters, his recourse to an unambiguously secular court, as with Tooth, could only lay him open to charges of inconsistency. The motive was purely pragmatic, of course; he was more likely to be able to undermine Penzance's judgement and authority in this way.

Accordingly, at Carter's first S.S.C. Chapter as Master, on 13th June 1878, a vote of gratitude was passed in reference to Mackonochie and Edwards "for their courageous resistance to the unconstitutional action of Lord Penzance at this time"[94]. Mackonochie's reply is not given by Reynolds, but it displays much that was admirable in the Scotsman's character:

> Br Mackonochie, in thanking the Chapter [...] remarked that the experience of the last 30 or 40 years had taught us that the work was God's, and that we had simply to go on, as long as He pleased to work by us. When He saw good to remove us, we should know that He had other workmen ready through whom it was His will to work, and we could unquestionably leave it in his hands: but, till then, we must neither take upon ourselves to alter his work to suit the wishes of the opponents of the Truth, nor yet abandon the work to save ourselves the direct contact with the world.[95]

Similarly, the Annual Meeting of the E.C.U., held on 18th June voted thanks to these two clergymen, and also to Ward:

> (1) for their refusal, under circumstances of the greatest difficulty, to surrender the accessories of Divine Worship with which [...] the Church of England, in common with the whole Western Church [...] has desired that the celebration of Holy Communion should be accompanied; and (2) for the protest they have made by such refusal against the depravation [*sic*] of the Ornaments Rubric of the Book of Common Prayer, and against the claims, put forward of late years by the Privy Council, to adjudicate as a supreme ecclesiastical authority on matters affecting the spiritual interests of the Church of England.[96]

The E.C.U. had continued to pursue an uncompromising course during the troubles of the preceding year: Marshall's influence on the S.S.C. invariably supported Mackonochie, Nihill and the hard-liners. One strength of the Union was the strong lay element: it was a lay society with incidental clerical involvement - as such, the members were not exposing themselves, for the greater part, to the danger of suspension, deprivation or imprisonment. The resignations from the S.S.C. of approaching a third of its membership between June 1877 and June 1878 contrasted with the extremely healthy growth in the E.C.U.:

> During the year 2,150 persons joined the Union, bringing up the total to 17,423. Two new District Unions, 11 Branches, and 17 Parochial Associations were formed. Total - District Unions, 34; Branches, 232; Parochial Associations, 93.[97]

Much attention meanwhile was being paid to the imminent gathering of the Lambeth Conference, which took place throughout the month of July, 1878. Expectations differed considerably: the S.S.C. maintained an attitude of huffy non-involvement; Bishops, after all, were hardly their favourite subject at the time. The same meeting of the E.C.U. discussed

above expressed the hope that the "united counsels" of the Bishops "may tend to the peace and well-being of the Church, the reunion of those separated from her fold at home, and the restoration of visible communion between the various Apostolic Churches of Eastern and Western Christendom." It is impossible to tell how much conscious irony there was and how much hopefulness in them. It is easier to distinguish the humour in a leading article on the opening of the Conference in the Times on 3rd July, where the unity among the Anglican episcopate was noted thus:

> They even had, surmounting the obstacles of their local accent, the very tone of voice which no other body of clergy throughout the civilized world can boast, and which gives Church of England ministers a virtual monopoly of the clerical sore throat.[98]

More seriously, it was doubted whether this Conference would be as successful as the first Pan-Anglican Congress ten years earlier, Wilberforce and Selwyn no longer being alive. The Times closed with the rather ominous observation that the Church of England might learn from its visitors:

> at least, how an Episcopalian clergy can maintain order and keep the reverence of its flock without the aid of the State, the resources of a State endowment, or the support and patronage of a great aristocracy.

There was an obvious relevance to the threats of disestablishment from outside if Ritualists could not be brought to heel, and also to those like Mackonochie and Stanton who advocated disestablishment as a Ritualist *panacaea*.

The month-long gathering sent out a rather conflicting message on Ritualism *per se*: whilst the assembled prelates put out a stern line on the subject, with some dissentient voices (people in England tended not to realise the spread of Ritualist practices in the colonies), a significant number of them attended the consecration by Bishop Jackson of London of the Ritualist stronghold of S.Mary Magdalene's, Paddington[99].

The Lambeth Conference's sterner statements on ceremonial were almost immediately quoted against the newly-threatened Manchester Ritualist, Sidney Faithhorn Green. Bishop Fraser, having received the official complaint of three of Green's parishioners under the 1874 Act,

attempted to settle the matter out of the courts by asking Green to give up various practices. He refused, curiously putting most emphasis on one of the practices which Enraght had offered to discontinue, the Mixed Chalice. To give this up, Green claimed would be to "deny my Lord and imperil my own salvation"[100]. Fraser, who liked to consider himself broadminded and generous, was in a difficult position: to use his veto, despite Green's refusal to cooperate,would have been to appear weak, yet he made no secret of his dislike of what he saw as his legal duty. Marsh comments that "the real victim of the suit" was the Bishop, whose popularity was undermined and who was made to look "a hard disciple of the rule of law"[101].

Meanwhile, Mackonochie's appeal for a prohibition against Penzance had been heard by the Queen's Bench Division (consisting in this case of the Lord Chief Justice and two other judges) on 27th and 28th June 1878. The Solicitor General, Sir Hardinge Giffard, appeared to argue for Penzance, and the hearing was rendered more complex by the fact that there was counsel for John Martin as well as for the two direct participants in the dispute. On 8th August, judgement was delivered: although one of the three judges dissented, the majority found in favour of Mackonochie's application. This meant that Penzance had exceeded his authority in attempting to suspend Mackonochie. The first reason was that the fresh offences testified to by the affidavits produced by Martin were, strictly speaking, nothing to do with the offences for which Phillimore had originally passed his sentence of 1874 and should therefore have been pursued in a new suit. Of course, this meant that there would be no way of enforcing any judgement against Mackonochie in a new suit. The other reason given for the Queen's Bench decision was equally destructive of Penzance's authority:

> A contumacious clerk could not be punished by suspension or deprivation; it must be a punishment which cease [*sic*] on submission. If the contumacious clerk continue to be stiffnecked and rebellious, he might be imprisoned, but he could not be deprived summarily of his benefice.[102]

The imprisonment of a rebellious clergyman was the last thing which the enforcement of the law required, since it invariably produced public sympathy, but this reasoning did have logic on its side: how could a clergyman whose crime was to ignore a judgement against him be

brought into conformity with the law by having his benefice taken from him? Nevertheless, there remained the equally insoluble problem of how the release of an imprisoned clergyman could be obtained if he refused to purge his contempt.

Two days after the Queen's Bench Division had delivered their decision and, consequently, issued a writ of prohibition against Penzance, the Times[103] voiced its discontent with the proceedings. Mackonochie's very use of the purely secular Queen's Bench Division was open to criticism: he had acted tactically rather than conscientiously. He and his friends

> Protest against Lord PENZANCE as a Judge under the Public Worship Act *[sic]*. They protest against him when using *[sic]* the venerable authority of the Dean of Arches. They clamour for a purely ecclesiastical tribunal, and they seek redress for wrongs inflicted by the Primate's Judge at the hands of the Court of Queen's Bench.

The sarcasm does not work so well if one stands the criticism on its head and asks quite what Mackonochie should have done in order to have acted conscientiously in the matter: was he to ignore Penzance's sentence whilst taking no steps to impede it? If he thought the judgement wrong, or rather considered it invalid, surely his conscience would justify using any available legal means to avoid the perpetration of this injustice?

But again, no one involved in the case escaped without at least some criticism. Mackonochie may have been lambasted for applying to Queen's Bench in the first place, but equally, the Court in question was attacked for having consented to interfere in the matter in his favour. Not only was it doubtful whether an irregularity in procedure, such as was alleged against Penzance, was a matter of prohibition rather than of appeal (i.e. the Queen's Bench should have directed Mackonochie to appeal to the Judicial Committee of the Privy Council), but it was considered wrong for a secular court to decide on the procedure to be followed by a church court:

> We must take leave to doubt whether even in the days of Lord COKE the Queen's Bench ventured to teach the ordinary Ecclesiastical Courts by what forms of procedure they should regulate their jurisdiction.

The Court of Queen's Bench, in other words, was teaching its grandmother to suck eggs.

But despite this attack on Queen's Bench, the Times also held the opinion that Penzance had indeed overstepped his powers and that, as a point of law, the prohibition against him was good. Monitions, until the recent precedents provided by Ritualist prosecutions, were never the "foundation of a sentence of suspension or deprivation for contumacy", but were simply a "species of judicial scolding" of no great weight. But Penzance was praised for his general capabilities as Dean of Arches, since the fear was expressed that he might resign in exasperation at the latest in a series of technical problems which continued to dog his attempts to enforce the rule of law in the Church of England. As would be very apparent in his dealings with the Prestbury Ritual case in November of this year, Penzance felt that his hands were now tied and found his situation extremely irksome.

But the most notable aspect of the case was not mentioned by the Times: Penzance was represented by no less a person than the Solicitor General, and the Treasury defrayed Penzance's costs. From an anti-Ritualist perspective it would have seemed obvious that the cause of an officer of the crown should be upheld against other litigants, and it seemed likely also that matters would not be allowed to remain in this state, but that a further appeal would be submitted, this time on behalf of Penzance and Martin to the Court of Appeal set up under the Judicature Act. The fact that the Queen's Bench judgement was not unanimous, but was simply a matter of two against one, rendered further appeal especially likely. To the Ritualists, however, the Treasury's action was a scandalous misuse of public funds, especially given that Martin had the finances of the Church Association behind him. Indeed, a few months later, on 12th December 1878, the E.C.U. registered its protest against this "unprecedented interference in litigation between private suitors" and set up a Special Defence Fund to further assist with Mackonochie's costs.[104]

Elsewhere on the battlefield between Ritualist Cavaliers and Protestant Roundheads, August 1878 saw a mixture of victory and defeat. On 5th August Tait's Suffragan Bishop of Dover consecrated the Ritualist Church of S.Michael and All Angels, Folkestone. Father Husband, the Perpetual Curate of this Church, had long been subject to anti-Ritualist attacks alongside

his rather less fortunate fellow-curate Charles Ridsdale, and yet the ecclesiastical authorities winked at the obviously Ritualist elements in the building (the Times[105] noted the presence of chancel gates, adding that "it is understood they are always to be open") and the fully choral nature of the consecration service itself.

Equally encouraging was Frederick Temple, Bishop of Exeter's, involvement in a Ritual dispute at S.Paul's Church, Devonport. He aimed at compromise, and in his response to a petition got up by anti-Ritualist protesters in the Parish succeeded in banging together the heads of the opposing factions.

> I see on the one side a carping spirit of criticism, ready to suspect, prone to find fault, disposed to magnify trifles into serious offences. I see on the other side a very culpable and selfish indifference to the pain and alarm which is caused by needless innovations.[106]

Whilst ordering the abandonment of altar lights and mixed chalice, Temple refused to order the removal of various Ritualist furnishings which had been intruded into the Church without a faculty. The overall message was that litigation was bad and to be avoided at virtually any cost:

> I entreat both sides to consider how very lowering a spectacle is presented by such disputes as these before the eyes of all the enemies of the Church.

Indeed, Temple, whose appointment had been opposed by extreme Ritualists because of his supposed liberalism, was to consecrate S.Peter's, Plymouth in 1882, and enjoyed excellent relations with its Tractarian incumbent.[107]

Bishop Harvey Goodwin, too, whose currency with the Ritualists had fluctuated more than that of most of the bishops, was sending out the same signals a couple of days later by refusing to act on a representation under the P.W.R.Act from the people's Churchwarden at S.George's, Barrow-in-Furness, against the Vicar, Tuffnell Samuel Barrett. In his written refusal to act[108], Goodwin cited Barrett's willingness to comply with his orders to remove a "confessional chair" and anything else complained of "without the painful process of litigation". But much of the Bishop's statement was directed towards the complainants: their

representations were "too frivolous to be brought into a Court of Law" and could only give rise to time-wasting. Barrett found the entire affair dispiriting, and resigned later on in the same year. Nevertheless, the message was that litigation was to be avoided if at all possible.

Some cases however exhibited no such conciliatory spirit: Thomas Pelham Dale was again at the receiving end of litigation at this time. Once the juggernaut of the 1874 Act had begun to move there seemed to be no stopping it on its unpredictable progress. Some had thought that the writ of prohibition against Penzance obtained by Dale in June 1877 would be the end of his case, but in August 1878 it became apparent that this was not to be so. Since, as patrons of the living, both Archbishop Tait and Bishop Jackson of London had been unable to act in the case, the Bishop of Exeter was appointed under the Queen's sign manual to deal with it. Temple did not relish the task: he was unable to get the requisite notification of the charges to Dale by post and so had to have a copy of the accusations affixed to the door of S.Vedast's.[109] Dale's second prosecution was under weigh: there was, moreover, an impressive list of offences[110]. These were altar lights, eucharistic vestments, the biretta, hidden manual acts at the consecration, wafer bread, mixed chalice, elevation, the sign of the cross "towards the congregation", sacring bell, the Agnus Dei, an Altar Cross and undue elevation of the "decent bason". At least he did not emulate John Purchas' usage of a stuffed dove.

In the Autumn of 1878 there was a relative lull in developments in the persecution of Ritualist clergy. There were few events of note in ecclesiastical matters during these months: at the start of October a Church Congress met at Sheffield, in November there was a well-publicised conversion of a Ritualist clergyman and an important Pastoral letter from a Bishop most closely involved in the Ritualist disputes of the time.

The Church Congress was the object of considerable opposition from the ultra-Protestant party, since it constituted a disloyal acceptance of Ritualists as worth parleying with. Such attitudes damaged the Low Church party and the contrast was drawn between the "somewhat

effeminated" state of "Evangelical eloquence", so often received by their own supporters with uncritical enthusiasm, and the way Ritualists were bound to sharpen their intellects since they "know every word they say will be pulled to pieces, and [..] speak less to friends than foes."[111]

There was a notable debate at the Church Congress between the leading Evangelical John Charles Ryle (two years later to become the first Bishop of Liverpool) and the young Edmund Wood of the S.S.C. on "the just limits of comprehensiveness in the national Church". Wood disingenuously advocated a liberal view. This was a case of expediency: in an ideal world, Wood would have the Church of England entirely Ritualist in its composition, but for Ritualists to maintain any sort of foothold within the Church of England comprehensiveness had to be advocated. His contribution to the Church Congress of 1878 was therefore an important piece of evidence for any understanding of "Anglican comprehensiveness": the Ritualists were stretching this concept to an extent where it rendered the Church of England meaningless as a doctrinal entity. This was apparent to contemporaries, who bracketed Ritualists with Liberals in the kind of effect they were having on the Church.

> Clergymen who are curious in the ecclesiastical millinery of the days of ETHELBERT or of the CONQUEROR, and clergymen who construct creeds out of their inner consciousness, are equally out of place in the Church of England.[112]

Another Bishop was in the public eye in the following month: Bishop Thorold of Rochester, a "pronounced Low Churchman"[113] tackled the problems which the episcopal bench as a whole were encountering with regard to Ritualists. In a Pastoral Letter, he depicted Ritualism as a foreign body within the otherwise homogenous Church, declaring that if the Church of England was to hold together, "she must very soon either absorb, modify or expel it". The option of expelling the Ritualist Movement lock stock and barrel from the Communion was impractical, he suggested, and his preferred way of dealing with Ritualist troublemakers was to follow a policy of isolation:

> He will neither confirm nor preach, nor perform any other official act in Churches adopting an illegal Ritual.[114]

Thorold was indicating the way forward, and such a policy was used by diocesan Bishops well

into the present century. Whilst the Times accepted that the "simplicity" of Thorold's innovation would prove attractive to his fellow Bishops, it did not approve. It militated against a proper understanding of the parochial system, whilst undermining episcopal authority:

> In taking up isolation as their cry against Ritualism, Bishops, it can hardly be denied, accept a view of the Church of England which is scarcely the view of a State Church. It has hitherto been supposed that the benefices of the Church of England were the inheritance of the parishioners and not the property of the congregations.

Thorold's *manifesto* also indicated how far the P.W.R. Act was already regarded as having failed: to adopt a policy of isolation was to signal to the Ritualists that the episcopal veto was likely to be used if any official complaints were made. As such, the policy was one of weakness rather than strength: a Ritualist parish could in most cases continue to function without the episcopal ministrations which Thorold proposed to withdraw. The most damaging form of isolation was the refusal to license curates, and this had already been used in several cases, for example that of John Bacchus Dykes of S.Oswald's, Durham.[115] It was a clear sign from one Bishop that the Act had failed.

Ritualists might have derived comfort from Thorold's Pastoral, but there was little comfort to be derived from news which broke at the end of the month. On 26th November, 1878, it was announced that a leading Ritualist clergyman and writer, Orby Shipley, had been received into the Roman Catholic Church. A graduate of Jesus College Cambridge and resident of the Athenaeum Club, his valuable work of organising preliminary Ritualist resistance to the P.W.R.Act at the Brighton Church Congress in October 1874 has already been noted. He was a member of all the Ritualist organisations, and was perhaps best known as editor of the Church and the World[116] which since 1866 had sought to present a mildly intellectual version of the Ritualist cause. He had also produced an impressive number of other works, not only of controversy but also works of devotion, poetry and hymnography. The news of his conversion, although not unexpected by his closer friends and mistakenly anticipated by some newspapers early in 1875, came as a blow to the Ritualist party, both as a loss of a talented man and as a source of anti-Ritualist *propaganda*.

Shipley broke the news in a letter to the Times[117], eloquently and simply stating his reasons for desertion of the cause which he had hitherto championed. Ritualism, he argued, pointed beyond itself and was unable itself to satisfy the instincts which it instilled:

> The cause of my taking this important step was, so far as I can perceive, a simple following of Catholic instinct to its legitimate and, in my case, logical conclusion - of course at the the call of God.

He had realised that although he had "long held" all items of Catholic doctrine and practice not positively forbidden to Anglicans ("In short , intellectually and in externals, so far as I could as a loyal English clergyman, I have believed and acted as a Catholic"), this had been on the false principle of private judgement: he now exchanged this for "the revealed basis of faith, which is authority."

He anticipated the kind of criticism which his conversion would engender, rebutting the suggestion that he had shown himself "inconsistent, changeful, weak and wrong": he had been advancing in one logical and coherent direction during his religious development, and had now reached the port whither God's grace was drawing him. He also denied that his conversion had been the result of any "personal influence":

> Practically, I have not been enabled to remain on intimate terms with any who have preceded me whither eventually I have been led.

Equally, he denied that his letter had anything original in it - many others had made the transition from Ritualist to Catholic before then - but requested publication for the sake of those "who still occupy a similar position to the one which I lately occupied":

> And these I know to be thoroughly honest, as I was; to be absolutely convinced of their position, as I was; to be determined never to leave it, as I was - until God's grace calls them, as it called me.

His former Ritualist colleagues must have looked on his move with bitter displeasure: his new position gave support to ultra-Protestants who held that Catholic doctrine and practice had no place in the Church of England, and also provided ammunition for Roman Catholic controversy. The Times attacked him and, through him, the Ritualist clergymen whom he had

left behind. His conversion cast doubt on the honesty and loyalty of those who remained; the principle of Catholic authority was a mistaken one (and reached in a paradoxical way - "but whose judgement has dethroned in his own mind private judgement?"); and Shipley ran the risk of proving to be a "rolling stone":

> We wonder whether he may not hereafter find the Romish Church itself cannot possibly give him the resting place he craves.

Nevertheless, Shipley's was a brave and risk-laden step in the Victorian era, risking as it did social ostracism as well as pecuniary disadvantage. Shipley was sufficiently well-off to disdain the latter; the former danger was not inconsiderable to such as he. He made a success of his Catholicism, despite the unkind prognostications of the press.

It became known at the beginning of December 1878 that Penzance was to appeal against the writ of prohibition granted against him by the justices of the Queen's Bench, and that the Treasury would defray the costs of this appeal. Both the S.S.C.[118] and the E.C.U. expressed sympathy with Mackonochie. The Union was in a better position to offer practical assistance, which it did by attacking the procedure as a waste of public money and setting up a Special Defence Fund to assist with the clergyman's costs. On 12th December, it resolved:

> That [...] the action of the Treasury in directing the law officers of the Crown to appear for Lord Penzance and contend against his being prohibited in the case of Martin *v* Mackonochie, and in further directing an appeal from the judgement of the Queen's Bench Division, all at public expense, is an unprecedented interference in litigation between private suitors.[119]

Touchingly, the same meeting also passed another vote of sympathy at the instance of the President:

> That this meeting of the English Church Union requests the President to convey to his Grace the Archbishop of Canterbury, on behalf of the [..] Society, the expression of their deep sympathy in the bereavement which has befallen him. Personally acquainted as many of them are with the debt which so many works of mercy in London and elsewhere owe to the self-denying and unwearied labours of Mrs Tait, they feel that a grievous loss has been sustained, not only by his Grace, but also by the suffering poor of Christ's flock. The Union earnestly prays that it may please God to support his Grace in his present distress.[120]

The death of his wife, on Advent Sunday, was not the first bereavement which Tait had suffered: as well as the tragic loss of five children to scarlet fever a decade or so before, his

son Crauford had died unexpectedly in May that year aged only twenty-eight, and the combined effect of these two deaths changed both Tait himself and the situation in which he found himself. Marsh says that after the loss of his wife he grew old "almost instantly"[121], and this had a significant effect on how he felt about Ritualism. His wife, although far from being a Ritualist, had always maintained a Tractarian point of view, and he was inclined to be influenced more by this now that she was no longer alive; equally, he began to see things more from the perspective of Eternity, realising that Ritualist innovations might be trivial compared with other concerns. His attitude then was to soften a little in the direction of tolerance. Equally, the way people regarded Tait was altered by his bereavements: he had never been a particularly popular or lovable figure on the public stage, but now his ecclesiastical authority was strengthened by the moral authority imparted by the suffering he had undergone. The changes to Tait himself, combined with this shift in the public perception of the Archbishop, could not but be inimical to continued litigation, and tend towards some kind of truce between the warring factions.

Possibly the earliest fruit of Tait's sufferings was his refusal to allow a complaint under the 1874 Act against Lowder to reach the courts. He was involved in this case, since the Bishop of London was the patron of the living of S.Peter's, London Docks. Ellsworth tells in admirable detail the course of the attempt to prosecute the S.S.C.'s founder[122]. It had been going on all year, opposed by Bishop Jackson. His opposition was based on the threat of mob violence at Lowder's Church and the propaganda value for the Ritualists if Lowder were to be imprisoned for contempt: Tait gave as his reason for using his veto Penzance's forthcoming appeal against the Queen's Bench judgement for Mackonochie[123], but must have had much the same preoccupations as those expressed by Jackson. Unlike other exercises of episcopal discretion before this point there was not even a semblance of compromise: Jackson commented to Tait that:

> Lowder is so obstinate that he will not give way on a single point [and there were seventeen at issue!]: at least I have not succeeded in persuading him.[124]

Given, it seemed, a solid enough measure of support from his congregation and a decent

amount of obstinacy, a Ritualist clergyman could get away without having to renounce any of his practices. But less encouraging were Jackson's subsequent attempts to deprive Lowder of the essential services of his curates.

NOTES ON CHAPTER FOUR

1 Marsh, p212.

2 *ibid*., p213. For full quotation, see Walsh, Secret History, p101.

3 Marsh, p214.

4 cf Walsh, *op.cit.*, p97.

5 K.S.C., A4, p105.

6 Ellsworth, p139.

7 Chronicle of Convocation, 6 July 1877, p329; quoted Ellsworth, p140.

8 Quoted Walsh, *op.cit.*, p101.

9 London, Charles Thynne, 1898.

10 Quoted Walsh, *op.cit.*, p102.

11 *ibid.*, p101.

12 Ellsworth, p140.

13 K.S.C., Ch71, A4, p110.

14 *ibid.*, also quoted Marsh, p221.

15 Walsh, *op.cit.*, p108

16 K.S.C., Ch71, A4 p111.

17 Times, 4 July 1877, p11d.

18 Marsh, p223.

19 Times, 7 July 1877, p11e.

20 Roberts, p197.

21 Times, 14 July 1877, p11d.

22 *ibid.*, 20 November 1876, p9f; c.f. Peter Cobb, The Oxford Movement in Nineteenth Century Bristol.

23 Roberts, p198.

24 c.f., John Baghot de la Bere, St Mary's, Prestbury. The Prosecution. A Statement relating thereto, set forth in a letter to the Archbishop of Canterbury. and St Mary's, Prestbury. The attempted Deprivation of the Vicar. Being a Second Letter to the Archbishop of Canterbury.

25 Roberts, p198.

26 Embry, p117-8.

27 K.S.C., Ch71, A4, p129; also quoted Walsh, *op.cit.*, p122.

28 Walsh, *op.cit.*, p122.

29 K.S.C., Ch71, A4, p132.

30 Ellsworth, p142.

31 Walsh, *op.cit.*, p123.

32 *ibid.*, p124.

33 *ibid.*, p125; he wrongly calls him "Edmund Gough de Wood" here, although he does get the name correct elsewhere.

34 *ibid.*, p127.

35 Reynolds, p224.

36 Embry, p121.

37 Coombs, George Anthony Denison. The Firebrand. 1805-1896., p195.

38 Embry, p122.

39 [Maria Trench], Charles Lowder, A Biography, p311.

40 Walsh, *op.cit.*, p129.

41 *ibid.*, p130

42 *ibid.*, p132.

43 *ibid.*, p133.

44 *ibid.*, p134.

45 K.S.C., Ch71, A4, p183.

46 E.B.Pusey (trans.), Advice for those who exercise the Ministry of Reconciliation through Confession and Absolution, being the Abbé Gaume's Manual for Confessors or his extracts from the works of Spiritual Writers, abridged, condensed and adapted to the use of the English Church, with a Preface embodying English Authorities on Confession, Oxford 1878.

47 Times, 22 August 1877, p9b.

48 The Bishop of Lichfield's reply, quoted Times 6 September 1877, p8d.

49 c.f. H.R.T.Brandreth, Dr Lee of Lambeth, A Chapter in Parenthesis in the History of the Oxford Movement, London SPCK 1951; H.R.T.Brandreth, Episcopi Vagantes and the Anglican Communion, London, SPCK, 1948; and P.F.Anson, Bishops at Large, London Faber 1961. Walsh gives a partial account himself, *op.cit.*, pp147-161.

50 K.S.C., Ch71, A4 p216.

51 Walsh, *op.cit.*, p138.

52 Coombs, Judgement on Hatcham, p128, wrongly implies this was 6th November, a mistake repeated by Palmer, p146.

53 Roberts, p196-7.

54 Times, 20 November 1877, p9e.

55 Coombs gives the entire text of Father Tooth's letter in Judgement on Hatcham, p129.

56 D.Morse-Boycott, They Shine Like Stars, quoted by Palmer, p155-6. There is a splendid photograph of this event in Morse-Boycott's book opposite p284.

57 Roberts, p200.

58 *ibid.*, p201.

59 Cobb, p23.

60 A.H.Ward, St Raphael's, Bristol: the Church closed by a Bishop, Bristol 1878.

61 Times, 29 January 1878, p10a.

62 *ibid.*, 5 February 1878, p5f.

63 Bristol Mercury, 11 May 1878, quoted by Cobb, p25.

64 Roberts, p205.

65 Cobb, p26.

66 see previous Chapter, September 1877.

67 cf Marsh, p235-6.

68 Times, 25 March 1878, p11a.

69 *ibid.*, 27 March 1878, p9e.

70 Nineteenth Century, June 1877, c.f. same, October 1878. For more details on Disestablishment, see Machin, Politics and the Churches.., *passim.*

71 It is an interesting exercise to compare these accounts with S.Alban's today. Much of the Church building was destroyed during the 1939-45 War, but the Parish continues the tradition of catering for minorities, at least in so far as it is the venue for the Lesbian and Gay Christian Movement general meeting each year.

72 Times, 26 August 1866, quoted in G.W.E.Russell, Saint Alban the Martyr, p303-4.

73 Russell, *op.cit.*,p306.

74 Roberts, p198.

75 Times, 10 April 1878, p9f.

76 Roberts, p199.

77 R.W.Enraght, My Prosecution under the Public Worship Regulation Act: A Statement laid before the Most Rev. the Lord Archbishop of Canterbury.

78 *ibid.*, p5.

79 *ibid.*, p8.

80 Enraght says (p9):

> I have never used and have never directed or sanctioned "Prostrations," and have never seen them used in this Church; but I can readily understand persons belonging to a section of opinion which has not learnt even to kneel, not appreciating ordinary acts of reverence towards Almighty God.

The Ritualist fondness for performing prostrations rather puzzles me: the only prostrations of the body in the Western Rite are at the start of the Good Friday liturgy, and during the singing of the Litany of the Saints at the Pascal Vigil and Ordination Masses...

81 Enraght, p12.

82 Although the majority of sources spell the name thus, the British Library General Catalogue prefers "Faithorn" and Anselm Hughes (p22) uses "Faithorne".

83 For more details of this case see Thomas Hughes, James Fraser, Second Bishop of Manchester, p254-284; there is also a Manchester M.A. thesis, H.E.Sheen, The Oxford Movement in a Manchester Parish: the Miles Platting Case, 1941, but this is, it seems, inaccessible.

84 Embry, p123.

85 Walsh, *op.cit.*, p140-1.

86 K.S.C., Ch.71, A4, p271.

87 Embry, p124.

88 Walsh, *op.cit.*, p142-3.

89 Reynolds, p226 names the year of his death as 1869, but one must presume that this is a typesetter's error.

90 Embry, p358. For more biographical information on Canon Carter, see also J.F.M.Carter, The Life and Work of the Rev T.T.Carter, n.d.; W.H.Hutchings, The Life and Letters of T.T.Carter, 1903; and for his work with Sisterhoods, P.F.Anson, The Call of the Cloister, 1964, pp307-15. Carter died 28th October, 1901, aged 93.

91 T.T.Carter, Harriet Monsell, A Memoir, 1884.

92 c.f. Reynolds, p229.

93 Roberts, p206.

94 K.S.C., Ch.71, A4, p292.

95 K.S.C., Ch.71, A8, S.S.C., Bound Volume of Printed Acta, June Chapter 1878, Acta, p6.

96 Roberts, p203.

97 *idem* .

98 Times, 3 July 1878, p9e. It is instructive to compare this with the current situation in the Church of England: the Daily Telegraph, 28 December 1995, p19 rejoices in the survival of what it calls "the fruity cleric", comparing the accent of the Very Rev'd Michael Mayne, Dean of Westminster to "Fortnum & Mason Dundee cake" and that of the Abbey's Treasurer, the Rev'd Colin Semper to "old Stilton". But lest we get too optimistic, the article concludes by quoting an anonymous West Midlands Rector to the effect that "The current trend among the hierarchy is very much flat vowels and mumbled consonants"...

99 Times, 10 July 1878, p9c.

100 Thomas Hughes, p259.

101 Marsh, p276.

102 Times, 30 June 1879 *[sic]*, p11c.

103 *ibid.*, 10 August 1878, p9d.

104 Roberts, p208f.

105 Times, 6 August 1878, p8c.

106 *ibid.*, 10 August 1878, p10a.

107 A.C.Kelway, George Rundle Prynne..., p167-71

108 Times, 14 August 1878, p7e.

109 *ibid.*, 17 August 1878, p7b.

110 *ibid.*, 22 August 1878, p5c.

111 Times, 1 October 1878, p7d.

112 *ibid*., 4 October 1878, p9c.

113 C.H.Simpkinson, Life and Work of Bishop Thorold, p79.

114 Times, 18 November 1878, p9d.

115 cf J.T.Fowler, Life and Letters of John Bacchus Dykes.

116 O.Shipley (Ed), The Church and the World: Essays on Questions of the Day, Longmans, London, 1866; O.Shipley (Ed), The Church and the World: Essays on Questions of the Day in 1867, Longmans, London, 1867; O.Shipley (Ed), The Church and the World: Essays on Questions of the Day in 1868, Longmans, London, 1868.

117 Times, 26 November 1878, p8b.

118 K.S.C., Ch71, A4, p345.

119 Roberts, p208.

120 *ibid*., p211.

121 Marsh, p240.

122 Ellsworth, p151-160.

123 Times, 14 December 1878, p4a.

124 Ellsworth, p158.

CHAPTER FIVE: THE ACT CRUMBLES 1879 - 1881

Though with a scornful wonder

Men see her sore opprest,

By schisms rent asunder,

By heresies distrest,

Yet Saints their watch are keeping

Their cry goes up, "How long?"

And soon the night of weeping

Shall be the morn of song.

-Hymns Ancient and Modern No 215.

The New Year of 1879 was bitterly cold and Ritualist slum parishes had their work cut out to deal with the distress the eight week long freeze brought to the poorest sections of society.[1] The New Year also brought yet more ultra-Protestant attacks on clergymen in such parishes. Bodington, of S.Andrew's, Wolverhampton, was one such: he and Bishop Selwyn[2] had reached a compromise in the face of anti-Ritualist agitation, but in January 1879 the Church Association attempted to overturn the peace. When it became apparent that the newly consecrated Bishop of Lichfield, William Dalrymple Maclagan, was not going to allow the Association to do so - he directed his secretary to inform the churchwardens "that he must decline to hold any further communication with" them "upon this subject"[3] - they responded by attacking the unfortunate Bishop in the press. He was, they alleged on 14th January 1879, acting inconsistently: the illegalities in Ritual practices at Christ Church and S.Matthew's in the same town had been suppressed,

> but those of St Andrews are left untouched and the halo of the Bishop's sanction thrown around them.[4]

This allegedly illegal attitude on Maclagan's part was defeating Tait's attempts to provide boundaries for the diversity within the Church of England. This letter was representative of a growing aspect of the Church Association's activity - the episcopate was being criticised with almost as much enthusiasm as the Ritualists themselves. Maclagan's reply, printed two days

later, was withering in its tone of icy contempt:

> You will not expect me to reopen a question to which I have already given so much time and thought, nor to discuss in detail your somewhat discursive letter.[5]

Much of the force of the Churchwardens' attack was also removed by the disclosure that Tait "has expressed warmly his approval" of the way Maclagan was handling the situation.

Similarly, Tait approved Bishop Mackarness of Oxford's decision to do nothing about the complaint lodged against Canon Thomas Carter of Clewer the previous July.[6] The veneration and respect felt for Carter by many moderate churchmen were such that any action would appear counter-productive. Besides, Mackarness, a moderate High Churchman himself, had gone on the record as disapproving of both the Church Association and the E.C.U. for the disturbance they caused in the life of the Church. Having himself been a member of the Church Union until 1869, he was disliked by both parties, by the one for having left and by the other for having joined in the first place.[7] Such prosecutions, he said, had "a tendency to cover all persons concerned in them with ridicule"[8]. A further consideration was that the complainant, Dr Julius, although claiming to have been driven away from Clewer Church, as Bernard Palmer says, "by the Ritualist acts which assailed his eyes there", spent a large part of his time in Egypt, and was thus hardly a genuinely "aggrieved" parishioner. Mackarness had settled in the summer of 1878 on the sensible procedure of simply doing nothing in response to the complaint[9], but in January, his conduct was challenged. The Church Association growing more desperate and inventive in its struggle to suppress Ritualism, Julius applied on 23rd January 1879 to the Queen's Bench Division for the issue of a writ *Mandamus* against Mackarness.[10] This would compel Mackarness to act on the original complaint against Carter, and would effectively open another set of floodgates for legal persecution of Ritualist clergymen, just as the Bishops seemed to be getting more inclined to stem the flow through the floodgates of the Public Worship Regulation Act - the question at issue was whether there was any episcopal *veto* included in the Church Discipline Act. If as Julius claimed, there was no such *veto*, Bishops were powerless to stop any prosecution the ultra-Protestant party cared to initiate.

Before arguments on this contention could be heard, Penzance again sat in judgement on Thomas Pelham Dale of S.Vedast's, Foster Lane, and on 8th February found him guilty of the various ceremonial illegalities of which he had been accused.[11] He was suspended *ab officio et beneficio* and ordered to pay the costs of his prosecution. Dale ignored the judgement. He had refused to celebrate Holy Communion during the period of his latest prosecution , but by continuing to say Mattins and Evensong in the customary way, and by refusing to pay the costs, he left himself vulnerable to any Church Association application for his committal to gaol for contempt of court.[12] He was in effect challenging his opponents to do their worst, in the full knowledge that his imprisonment, like Tooth's two years before, was liable to help rather than hinder the Ritualist cause. Nevertheless, he was in an unenviable position, with little support from his parishioners and almost no congregation in his little city church: the fellowship and support offered by his colleagues in the S.S.C. was an invaluable support to him.

Dale won a minor propaganda victory shortly after Penzance had pronounced sentence. It was discovered that monies totalling £75 had been paid out of the trust funds of the parish to assist the Church Association in their prosecution of the Rector. The Charity Commission ruled these payments to be irregular, and the fact that they were used to pay for witnesses to attend services at S.Vedast's and testify against Dale cannot have increased public sympathy for the prosecutors.

On 27th and 28th of the same month, Julius' application to the Court of Queen's Bench to compel the Bishop of Oxford to act on his complaint against the Master of the S.S.C. was argued before the Lord Chief Justice and two others. Bishop Mackarness defended his own position in person, causing the Times to observe sardonically that:

> The appearance of a Bishop in person to plead his own cause in the Court of Queen's Bench is a singular occurrence and must bespeak unusual attention to the question in dispute.[13]

Mackarness' arguments hinged on the wording of the Church Discipline Act: although the

words "it shall be lawful" usually meant "it shall be obligatory" in English Statute Law, in this Act those words were followed by the phrase "if he shall think fit", which appeared to place a more definitively voluntary interpretation upon the way the Act expected a diocesan Bishop to react to a complaint. What Mackarness did not point out was that the words "if he shall think fit", rather than applying to the behaviour of a Bishop upon receipt of a complaint, appeared to deal with how he ought to behave if he considers that an investigation is necessary yet has not received any complaint:

> it shall be lawful for the Bishop of the Diocese [...] on the application of any party complaining thereof, or, if he shall think fit, of his own mere motion, to issue a commission.

But there was various evidence in favour of this non-natural interpretation: the Court had refused to issue a *Mandamus* in the case of Shepherd *versus* Bennett in 1869, for example. He further defended his conduct by pointing to:

> the high character of the clergyman, the sympathy he commands from a large number of his parishioners, his age, and even the possibility of his resigning, besides the legal confusion at present prevailing in respect to these controversies, which render him reluctant to put the law into force.[14]

This was strictly speaking, irrelevant to the matter in dispute, since the Court was not deciding whether he had used his discretion well or ill, but whether he had any discretion in this case at all. The counsel for the Church Association made this very point, and further alleged that:

> In this case the Bishop has not exercised his discretion. He has simply put off from month to month - from last July in fact, to the present time - giving any definite reply to the application made to him.

If the Church Discipline Act was so similar to the Public Worship Regulation Act in its provision of an episcopal veto, then surely in order to exercise that veto the Bishop had to give a written explanation of his reasons for refusing to act.

The Times of 1st March 1879 discussed the case. Although it apparently wished the Queen's Bench Division to decide in Julius' favour and thus uphold "the right of every parishioner to have the law obeyed in public worship", it admitted that the outcome of the case was a matter

of some uncertainty. By this stage in the Ritualist Controversy, faith in the statutory machinery was severely shaken:

> The case will, at least, illustrate once more the extreme difficulty, if not impossibility, of regulating ecclesiastical affairs by strict law, and will, it is to be feared, add another complication to an entanglement already almost intolerable.

This was a very different attitude to that shown only a few years before by the newspaper, though it is significant that it is expressed only in negative terms. The Church cannot be ruled by laws alone, but the Times was reluctant to admit too explicitly that the only alternative was that it should be ruled by the Bishops.

Judgement was delivered in favour of Julius a week later, and with the benefit of hindsight, the Times was able to claim that this outcome had been "generally anticipated" and that "no one can doubt that the conclusion of the court was right.[15] This was despite the fact that the judgement rested on the words "it shall be lawful" having a "peremptory obligation" and that the judgement meant that whilst a Bishop could overrule the complaint of the three persons required by the Act of 1874, he could have no such power over the one complainant demanded by the older Act - a situation "absurd in theory and anomalous in practice."[16]

The Times greeted the judgement as likely to prevent the development of different "usages" in different dioceses, and as a triumph of law over lawlessness. However, there were some reservations. The least satisfactory aspect of the judgement was that the Court of Queen's Bench appeared to be claiming for itself the discretion which it denied to the Bishop: the judges had "to inquire whether the case presented to them was of a character to necessitate the issue of a mandamus" and if, in future, they were to decline to interfere, the "Bishop would be left master of the situation". The hope was expressed that the Queen's Bench would only decline to interfere in complaints from non-parishioners or obviously malicious or vexatious complainants.

It was obvious, however, that this judgement was unlikely to achieve much practical good:

> It may be that prosecutions such as Dr JULIUS seeks to institute are sometimes of

> little benefit either to priests or people; but this is an argument to be addressed to the Legislature as a reason for altering the law, not to be advanced by a public officer as a reason for refusing to fulfil it.

Equally apparent was the likelihood that Mackarness would attempt to get this judgement overthrown. He did not relish the situation in which he found himself - under order of a secular court to take proceedings against a much respected clergyman. Accordingly he lodged an appeal from the Queen's Bench Division to the Court of Appeal: apart from his personal inclinations, he was under pressure from Tait to do so, since the Queen's Bench judgement could potentially wreck any policy of out-of-court conciliation with Ritualists.

There was little conciliation to be seen in Martin *versus* Mackonochie at the time: Penzance and Martin had submitted an appeal from the Queen's Bench Division judgement of the preceding August and on 11th March 1879 this was heard before a panel of five judges of the Court of Appeal. Mackonochie's counsel put forward the view that what was needed was a fresh suit and that whilst both monitions and suspensions were proper legal weapons within Penzance's armoury, he could not use the latter to reinforce the former. On behalf of the Court of Arches it was urged that:

> The Bishops and Archbishops are charged with the guardianship of ritual and clerical discipline. As soon as an offence is shown to them in their Courts to have been committed, they will [...] continue to take cognisance of the offender until he be reformed.[17]

The result of the appeal was entirely unpredictable, partly because of the failure of the old Court of Delegates to keep proper records or to give reasons for their decisions:

> A merchant who kept his ledger in the way in which ecclesiastical courts keep their records would be exposed to very severe remarks should he have the misfortune to come before a Registrar in Bankruptcy.

Judgement was reserved for three months, so that, by the time it was given, the judgement in Mackarness' and Carter's case in the same court had been given.

All the time, the Bishops were subject to a vast range of forces seeking to influence them. At the end of the month, an anti-Ritualist meeting in Liverpool "under the auspices of the local Working Men's Conservative Association" attacked them for their supposed inaction against

Ritualism and "determined that a memorial be forwarded to the Premier in favour of the enforcement of the Public Worship Regulation Act".[18] This meeting, held on 26th March 1879, also serves to demonstrate how diverse the ultra-Protestant party was in its approach: the Liverpool meeting, although it had noticed that the episcopal veto was making the 1874 Act of no effect, was still campaigning to get the Act enforced; but the Church Association's policy in Carter's case was clearly seeking to turn the Church Discipline Act into an effective replacement for the newer Act. Nevertheless, at the same time the Association continued to support the various prosecutions going ahead under the 1874 Act and, towards the end of the year, was also campaigning for an amendment to the law. This was again at a meeting in Liverpool (always a hot-bed of religious sectarianism, as John Kensit was to discover to his cost a couple of decades later[19]) on 18th November 1879:

> The resolution addressed to the premier called his attention to the fact that the Public Worship Regulation Act had not put down Ritualism or extinguished the"mass in masquerade" and prayed for such an amendment of the law as would put an end to the lawlessness prevalent within the pale of the National Church.[20]

It was apparent then that ultra-Protestants were undecided on the policy to pursue for maximum success, but although this might ultimately be seen as a weakness in the fight against Ritualism, it did not in the short term make them any easier to deal with, either for the Ritualists themselves, or for the Bishops.

Bishop Philpott of Worcester was certainly having difficulty with the warring factions in his diocese: having failed to bring about any informal compromise at Holy Trinity, Bordesley Green, about Easter 1879, he received a formal representation from John Perkins, complaining of Enraght's continued illegalities of ceremonial. Philpott wrote to the offending clergyman that, as he had not submitted on all four points complained of, he had "with very great grief stated to the Registrar of the Diocese that proceedings must be taken."[21]

Some negotiations followed, between Enraght and his persecutors, first through a group of "certain influential Birmingham Churchmen" and later in face-to-face talks. Enraght described these negotiations:

That none might be able to say that I have not done all that was possible for the peace of the parish without altogether sacrificing my conscientious convictions, I [...] offered -
(1). To put our Sunday Choral Celebration at 9.45 a.m.; and have, every Sunday, Matins, Litany and Sermon at 11 a.m.; although I knew such an arrangement would be most inconvenient for worshippers at the Choral Celebration;
(2) To give them one or two monthly Sunday Celebrations, without any of the points complained of. [...]
(3) Never to have Processions before or after the 11 a.m. Sunday Service, as in any way connected with it;
(4) To cease signing myself with the Cross, and bowing my head at the Gloria, at Sunday Matins and Evensong, [...]
(5) To disuse at Sunday Matins and Evensong [...] an Altar Frontal to which they raised objection;
(6) And altogether to try and make them satisfied as far as might be in my power, without giving up what I and my congregation held to be of principle.
Could I possibly have done more?[22]

But nothing came of this and so a date was set for Penzance to hear the case. Enraght published his correspondence with Phillpott[23], sadly observing that

> This was my only resource in justification of an unhappy position so capable of misinterpretation and misrepresentation.

Whilst the P.W.R.Act was being put into action against Enraght, there was progress in the Carter Case under the Church Discipline Act. Carter joined Mackarness in his appeal against the Queen's Bench judgement of 8th March. This brought Mackarness a great deal of legal and financial assistance from the E.C.U., and accordingly the hearing in the Court of Appeal lasted for seven days (23rd-30th April 1879), such was the battery of legal argument brought. As with many such appeals, however, the proceedings were merely a lengthened repetition of the arguments presented before the lower court. Besides, all the participants plainly realised that, whatever the judgement given, there was likely to be a further appeal by the defeated party to the House of Lords.

Meanwhile, the year-long stand-off at Miles Platting had been broken: the formal complaint under the Public Worship Regulation Act against Sidney Faithhorn Green was received by Bishop Fraser in December 1878 and he chose not to exercise his *veto*. He defended this decision in response to a memorial from the Church of England Working Men's Society, pointing out that at least two of the offences alleged against Green had been pronounced illegal by Deans of Arches before Penzance's appointment (lighted candles by Lushington in

Liddell *versus* Westerton, and in the less distant past, the commixture of water and wine by Phillimore in Martin *versus* Mackonochie) so there was:

> No pretence for saying [that the] Court of Arches submitted its judgement to that of a mere civil tribunal.[24]

Enraght was in for a rough ride:

> St.John's Church was broken into in April 1879, and a cross, a number of robes, books and other property were partially destroyed by fire.[25]

The prevailing episcopal reluctance to use the courts against Ritualists was exemplified again by the Bishop of Chester. The clergyman in question, James Bell Cox of S.Margaret's, Liverpool, was to be the last to suffer imprisonment for his offences, under the less forebearing first Bishop of Liverpool, J.C.Ryle. On 5th May 1879 Bishop Jacobson replied to a petition complaining of a number of illegalities, including the use of birettas. This reply[26] was in effect an admission of his impotence:

> No one of the practices complained of by the petitioners has the approval or sympathy of the Bishop; but it does not follow that they can, one and all, be pronounced necessarily and absolutely illegal. [...] There has been nothing to encourage Bishops to attempt the checking of such irregularities and innovations by legal proceedings.

After all, the confusion about the relation of the Church Discipline and Public Worship Regulation Acts needed to be sorted out before any more litigation was undertaken, also none of the complainants were parishioners, S.Margaret's having only a notional parish at the time:

> Prosecutions based on the complaints of those whose right to make them is legally questionable have repeatedly given occasion to scandals, and have been of no avail in checking excesses in ritual.

Whilst Jacobson did not explicitly propose to follow the lead already given by the Bishop of Rochester and follow a policy of isolation with regard to such parishes, this was his intention. Ritualists could take encouragement from this latest in a growing list of refusals to set the law on them. Equally, in a perverse kind of way they could take courage from reports which appeared in the press a week or so before[27] concerning a former Curate of S.Mary Magdalene's, Paddington, now a Canon of Pietermaritzburg in Cape Colony. Canon Bowditch

had been inhibited by his Bishop for his "extreme Ritual". Whilst ultra-Protestants might see this as proof that Ritualists in the Anglican Communion would be punished even to the ends of the earth, Canon Bowditch's inhibition could not but speak volumes for the already wide-spread diffusion of Ritualism through the Empire.

The S.S.C., meanwhile, continued to "convalesce" (Embry's metaphor) after the traumas of the Priest in Absolution. The May Synod of 1879[28] saw Carter insist, despite the members' entreaties, on relinquishing his Mastership after only one year. Mackonochie was again elected into his place, so Carter's reluctance to continue in office cannot have been because he was under attack in the Courts. Until almost the end of the period of this study, Mackonochie remained Master, although to adapt Embry's metaphor, as the Society regained its strength after the near-fatal illness, Mackonochie was to grow weaker and more tired under the continued strains of litigation. From this stage, however, the S.S.C. ceased to provide so much of a useful commentary on the course of ecclesiastical politics, a role which was taken over increasingly by the E.C.U..

On 30th May 1879, the Court of Appeal gave judgement on the appeal jointly lodged by Carter and Mackarness against the issue of a writ mandamus by the Queen's Bench Division. It overturned the lower court's decision, much to the delight of Ritualists, although it was fairly certain that the Church Association, acting through Julius, would lodge an appeal to the House of Lords from this judgement.

The following day, the Times considerably modified its earlier opinions on the case. This time, the Bishop's discretion (and thus the Appeal Court judgement) was given a ringing endorsement:

> To strip the Bishop of his discretionary authority would be to leave him the shadow of himself.[29]

Although "the obscurity and uncertainty of all things relating to ecclesiastical law" was criticised, blame was also attributed to the drafting and nature of the Church Discipline Act

itself. The phrase "it shall be lawful" was used in two different and conflicting senses within the Act, and its drafting was "in complete ignorance or defiance of the rules of construction which Courts of law apply." A further weakness was that the Act failed to specify even that the complainant should be a parishioner.

Although the decision in favour of the episcopal discretion was unanimous, Lord Justice Bramwell had differed from his fellow judges in that he felt that Mackarness did not deserve to be awarded costs in the case, since he had exercised his discretion badly. Bramwell's opinion rendered the discretionary power fairly useless and the Times questioned "the value of the Bishop's discretion if he is to be punished when he does not exercise it as some secular Court thinks that he ought." Finally, it was noted that both the Lord Chancellor and Lord Selborne supported Mackarness' views, so that if an appeal should be made to the House of Lords, it seemed likely that the decision of the Court of Appeal would be upheld. Julius announced his intention of making such an appeal, but the issue of this belongs to the following year.

A fortnight later, Penzance sat again in his compromised role as Dean of Arches: two clerical prosecutions concerned him at this point, the long-running case of John Edwards of Prestbury and the new case recently initiated against Sidney Green. It was the first time that Green had come before Penzance and, offering no kind of recognition to the court, he was found guilty as alleged. A monition was accordingly issued binding him to avoid the illegal ceremonial in future.[30] As for Edwards, Penzance felt that his hands were tied by the fact that his appeal against the judgement of the Court of Queen's Bench in Mackonochie's case was still *sub judice*. Penzance stated that he "should have been prepared to order a *significavit* in this case", since Edwards had disregarded his suspension and once this contempt had been proved by affidavit he could be sent to gaol; but "out of respect to the Court of Queen's Bench" he decided to defer judgement in case that Court's ruling on what constituted a valid suspension should be upheld by the Court of Appeal. Edwards was thus able to continue in his disobedience to Lord Penzance's court, much to the joy of Ritualists and the anger of the

ultra-Protestants of Cheltenham.[31]

The judgement whose approach prevented Penzance from effectively sending Edwards to prison, finally was given at the end of the month, on 28th June 1879. As with the lower Court's decision, this judgement (in favour of Penzance and Martin) was not unanimous. In fact, two out of the five Appeal Court judges dissented from the judgement, so that overall, an equal number of judges had taken each side in the argument. Hence a further appeal, this time to the House of Lords seemed indicated, so as to settle the issue more definitively. But for the moment Mackonochie made no such move.

The unsatisfactory nature of this division of judicial opinion was the main theme of the comment on the case supplied by the Times a couple of days later.[32] The entire process was categorised as a "curious and unedifying game". There was a scandalous contrast between the certainty of Mackonochie's guilt and deserts, and the great uncertainty of the law and its precedents. So although he was

> not entitled to much sympathy [...] he is condemned in virtue of a system which is admitted to be obscure by a Court almost equally divided, and composed of Judges who own their want of familiarity with the law which they apply.

Furthermore the result even of this victory for Penzance was not to be satisfactory; a fresh suit would almost certainly have to be brought in order to get Mackonochie deprived of his benefice, and, if instead Martin were simply to prove his Vicar's contumacy,

> the alternative punishment, imprisonment, is unsuitable [...] it would shock the public conscience; and, as Lord Justice THESIGER remarked in his able judgement [33], it would create sympathy for one who deserved none.

Mackonochie, like Edwards, continued to run his Parish and order divine worship in accordance with his own convictions. There remained, so far as this suit was concerned, only a few further moves which were possible. Martin was reluctant to demand imprisonment, although the Church Association still desired such an outcome to the case. He was after all a moderate man, as would be further demonstrated in the following year when he felt so uncomfortable with his role as complainant, given his age, health and the reception which he

had met in the courts, that he wished to withdraw from the suit.[34]

A few days after the Court of Appeal judgement for Martin and Penzance, Convocation met to discuss the general revision of the rubrics of the Prayer Book (an idea which had been in the air for some time). Of particular concern was the revision or complete removal of the Ornaments Rubric, which Ritualists read as supporting full Catholic ceremonial. It was not wholy surprising then that the S.S.C. and E.C.U. were deeply concerned by such moves. On 1st July 1879 the Bishops considered two proposals, the first being to further liberalise the rules about the recitation of the so-called Athanasian Creed. Roberts noted that:

> The Bishop of London (Jackson) gave as a reason why the Creed should not be used on Christmas Day that Dissenters often come to our services on that day, and they might feel hurt by hearing it![35]

These proposals having been narrowly defeated, the Upper House proceeded to consider the abolition of the Ornaments Rubric. Although the Bishops wished almost without exception to do this, the Lower House refused by a large majority even to discuss this proposal. Eventually it was decided

> (1) To leave the present rubric intact; (2) to add to it the words "until further order be taken by lawful authority"; (3) to enforce as a *mininum* the surplice, stole and hood, with the alternative of a black gown for preaching; (4) to allow a Bishop by a monition formally pronounced in his court to restrict any priest in his diocese to the *minimum* use.[36]

This compromise, effected mainly by the action of Archbishop Thomson of York was not wholly without encouraging features. The E.C.U., which was concurrently campaigning for the reform of Convocation[37], was able to point out that Convocation had accepted "neither the reasoning nor the authority of the Privy Council in the interpretations put upon that rubric by the Judicial Committee." This was perfectly true, since the object of the decision appeared to be to "determine in favour of the permissive instead of the obligatory force" of the rubric in question. Nevertheless, Ritualists were on the whole alarmed by any tampering with the foundation documents of the Church of England. For the remainder of the year, the Union busied itself in rallying opposition to the measure: a Memorial against any alteration was presented to the York Convocation when it met at the end of the month; in October the

Church Congress received a similar document and in November Archdeacon Denison presided over two mass meetings in London to oppose any alteration in the Prayer Book. The ultimate result of these efforts was a massive demonstration of popular feeling, with more than 50,000 signatures to a Declaration opposing the proposals in the strongest terms.

> I. That it is not expedient at the present time to alter the Prayer Book.
> II. That if at any future time such alteration be contemplated, the Lower Houses of the Convocations of Canterbury and York require first to be made adequate representations of the clergy of the two Provinces.[38]

Ritualists, like their Oxford Movement predecessors[39], made a point of pursuing a democratic aspect of ecclesiastical polity which was at variance both with the tradition of the Catholic Church which they sought in other ways to emulate and with the division of opinion in such matters within the ranks of the English clergy: a truly democratic Convocation would have been unlikely to uphold any of the Ritualist concerns, and in this present century a General Synod far more democratic than the Convocations of a hundred years ago has been the cause of the final departure of many of the descendants of the Ritualists from the Established Church. This appeal to democracy constituted only an appeal to a non-existent authority and was thus a good excuse for refusing to countenance the rulings of any bodies which in fact existed.

The debate in Convocation in early July also had side-effects in the case of Perkins *versus* Enraght. This clergyman did not use the appeal to a more democratic version of Convocation as a means of putting off compliance *sine die*:

> In the course of my corespondence with the Bishop I had more than once, to prove my dutifulness and my desire for peace, expressed my readiness to abide by any decision of the Convocation of Canterbury upon the matters in dispute between us. When, therefore, both Houses of the Convocation of Canterbury, on July 4th, passed a Rider to the Ornaments Rubric to the effect that the Eucharistic Vestments should not be used in a Parish Church "contrary to the monition of the Bishop of the Diocese" I was much distressed by such unexpected action; but I felt that no other course was open to me than to submit to the Bishop's Direction on the question of Vestments.[40]

He conscientiously submitted on all the points which had been complained of, and Philpott wrote immediately to the promoters of the prosecution in order to encourage them to "stay the suit in its present early stage", adding that

> If the Vicar had notified to me his intention to comply with these directions within the time limited by the Public Worship Regulation Act after my receipt of your Representation, I should have felt it to be my duty to state that proceedings ought not to be taken on the Representation.

But despite the support which the Bishop now gave Enraght, the prosecutors, advised by the Church Association, refused to stop the wheels of the Act. As Enraght later commented, "Such is a sample of their boasted 'support of episcopal authority'". The only people who could stop his trial having refused to do so, Penzance sat to hear the case on 9th August the same year.

Although Enraght subsequently denied several of the charges against him, he refused to defend himself before Penzance on the familiar Ritualist grounds of lack of spiritual jurisdiction. Accordingly, he was found guilty on all charges, was issued with a Monition and was ordered to pay costs.[41] Enraght felt especially hard-done-by since he blamed Phillpott for not having somehow stopped the case when his Direction was complied with:

> I cannot therefore but think that I have not been justly treated, and I think I have good cause to denounce the invention of a modern Parliamentary system of supposed ecclesiastical judicature, which conscientious clergy, jealous of Church rights, being unable to recognise, can only suffer from as I have done.[42]

The same day, Penzance's Court also dealt with Green. Complaint was made that he had disregarded the Monition handed down in June, and finding this to be true, the judge inhibited Green for three months *ab officio et beneficio* and ordered him to pay the costs of the action. Like Enraght, Green refused to recognise Penzance or plead before him.

Both hearings of 9th August 1879 proved to have interesting consequences. Green's inhibition led to a display of moderation from Bishop Fraser, who knowing that Green would not recognise his inhibition declined to appoint a clergyman to take services at his Church during the three months in question. He thus avoided any such dramatic or unpleasant struggles for possession of Green's Church as had been seen in Tooth's case.

But more scandalous was the consequence of Penzance's award of costs against Green: the

receipt of the bill of costs brought some damaging revelations about the way in which the prosecution had been undertaken. Roberts wrote:

> From this interesting and authentic document it appeared, that not only (1) had the lawyers for the prosecution private interviews with the Judge, with a view to correct certain failures in the preliminary steps [...] - not only (2) did the Judge write a letter to the lawyers of the prosecutors expressing his willingness to follow their suggestions [...] - not only (3) had the Judge caused the prosecutors' lawyers to be informed as to what proof he should require in open Court of an essential part of their case against the defendant - but (4) in addition to all this, Mr Green, as his quota towards this "indifferent administration of justice", was to enjoy the luxurious privilege of paying the cost of these private interviews, undertaken with the express purpose of making quite sure that he should not, by any technical flaw, escape from the toils of his persecutors.[43]

Naturally, the E.C.U. publicised these facts as widely as possible, even informing the Home Secretary, and such revelations served to undermine further the credibility of Penzance and his Court. Not only, it seemed, was his Court not really the same as the old Court of Arches; it was also biased against the Ritualists who came before it.

Equally damaging were the rather more long-running repercussions of the judgement on Enraght passed the same day. Towards the end of the month, he discovered that a piece of wafer bread which had been produced in evidence at his trial had in fact been consecrated: he immediately wrote to the Bishop, who refused to interfere in the case. Therefore on the following Sunday (31st August), from the steps of the Altar, he denounced the unknown communicant who had stolen the wafer in question. The reaction was nationwide: Ritualists and more moderate High Churchmen considered this to be sacrilege and protested accordingly. Roberts described a "feeling of intense horror and indignation", made worse by the picturesque indignity that the Host had undergone in being marked and numbered as an exhibit with pen and ink. Fong rather less seriously drew a connection with contemporary Roman Catholic devotion to the Eucharistic Presence:

> If Christ might not, as in Roman usage, be a Prisoner in the Tabernacle, He could hardly be confined as a Material Witness for the prosecution of a priest in the Arches Registry.[44]

The outcry against the Bordesley Green Sacrilege, as it became known, continued until 12th December 1879 when Tait gained possession of the Host and "reverently consumed it" in his

private chapel at Addington Palace. Although Tait's motives may have been influenced by consideration of the dangerous liturgical illegalities which might occur if the wafer came into the possession of any section of the High Church party, the E.C.U. was thankful "that some reparation, however tardy and inadequate, was made for the act of sacrilege."[45] Enraght's Churchwarden Perkins, who had been indirectly responsible for this profanation was voted out of office by a massive majority at the Easter Vestry Meeting the following Spring and the scandal added to the growing public disapproval of the methods of anti-Ritualists.

The S.S.C. September Synod, joined in the chorus of outrage and disapproval, unanimously passing Marshall's and Nihill's motion:

> That this Synod learns with indignation and sorrow that, in the procedings recently taken by the Church Association in the Court of Lord Penzance, a portion of the Blessed Sacrament of the Lord's Body, which had been illegally, irreverently and profanely taken out of the Church by a pretended communicant, was produced in Court and accepted by the Judge as evidence of the use of Wafer Bread; and this Synod would suggest to the Brethren the desirability of taking measures in their several parishes and neighbourhoods to bring this matter before the notice of the Bishops and Churchmen generally, with a view to preventing any repetition of such an act.[46]

A copy was sent to Enraght, and the hope expressed that at least the episode would teach the laity "the reason there was to guard the Blessed Sacrament from profanation, and the importance of reviving the laws of the Church on discipline."

The Church Congress met at Swansea at the beginning of October. The contribution of the leading evangelical, J.C.Ryle, to a debate on the subject of "Internal Unity in the Church", was particularly relevant. He could see no place for Ritualists within the State Church, and held that the only possible unity within the Church of England was one between

> Churchmen who, while they occupy different standpoints, are honestly agreed on certain common fundamental principles.[47]

For the promotion of such a unity, he suggested four approaches: the recognition of Christian virtues wherever they are found; the toleration of diversity in "matters not essential"; meeting one another on neutral ground; and cooperation in social and charitable action. The Times was not exactly hopeful. Church Congresses themselves were misleading, it suggested, in their

tendency to paper over the differences between rival factions within the Church:

> The result is that everybody comes away admiring the general good temper which has been shown, but no one feels much reassured respecting the result of the next excitement in theology or church politics.

So Ryle's contribution was welcomed as honest about the divisions in the Church. But, to use Pope John XXIII's comment about ecumenism, surely what united them was greater than what divided them? Or as the Times put it,

> We confess we should have thought there were some rather large fundamental principles on which Canon RYLE was agreed with even a Ritualist, and we thus feel ourselves floundering among generalities at the outset.

The implication of Ryle's views was that High, Low and Broad Churchmen were so different as to preclude the possibility of their working together in pastoral work, and the value of any such "unity" which excluded this fundamental aspect was questionable. It was anyway an alarming "exhibition of the extent of divergence which Churchmen feel to exist" among themselves. Ryle himself admitted that:

> A self-governing Church, unchecked by the State, with free and full synodical action, divided as much as ours is now, will most certainly split into sections and perish.

The Times suggested that the situation should be approached from different first premises: instead of seeking to define unity in some kind of formula to which all parties could agree, the different parties should "resolve that they will not disunite" but "make the maintenance of unity the first law of their existence". Such a solution would entail compromise and cooperation, together with the recognition that each party could learn from the others - an early vision of "Anglican Comprehensiveness". The Times' attitude, although indirectly undermining the importance of objective truth in doctrine, was to prove to be the way forward. But Ryle's ultra-Protestant voice was the authentic voice of the historical Church of England.

There was little compromise or cooperation to be discerned in the prosecutions of Ritualist clergy: on 2nd November 1879, John Edwards (shortly to change his name to John Baghot de la Bere) again appeared before Penzance. The judge had deferred judgement on the case in

the summer because of the impending judgement of the Court of Appeal in the Mackonochie case. This judgement had been given on 28th June and can hardly have been what Penzance had been hoping for, as was soon apparent at the Edwards hearing. He criticised at length the Appeal Court judgement (which stated that whilst monitions, suspensions and deprivations were all weapons in the armoury of the Court of Arches, the more severe could not be used to reinforce one of the others in the same suit), concluding as follows:

> I have dwelt thus at large upon the judgement pronounced in Mr Mackonochie's case because I conceive that the independence of this tribunal demanded an adequate protest against the invasion thereby made upon it. But the Queen's writ of prohibition, however unadvisedly issued, must command both obedience and respect. And as I cannot proceed to punish Mr Edwards, the defendant in the case, by imprisonment, without the chance of running counter to the principles which have been acted upon in the case of Mr Mackonochie, and possibly, if not probably, inviting another prohibition, I think it best for all parties to hold my hand, and decline to proceed to compulsory measures at present.[48]

Edwards, in other words had escaped for the time being, although on 15th November the E.C.U. received incorrect rumours that Penzance was about to pronounce him to be in contempt and to issue a writ *significavit* with a view to his imprisonment.[49] However, reluctance to do this meant that a new suit against him was the only way in which the ultra-Protestant party could continue to harass him. Edwards, indeed, had escaped the "snare of the fowler" for ever, since by the time this new suit could be brought, he was Baghot de la Bere.

The occasion for this false rumour was Penzance's sitting to hear an application from Martin for an enforcement of the order of suspension which he had made on Mackonochie almost eighteen months before and which had been the original subject of the appeal to the Queen's Bench Division. Given the evidence of Mackonochie's disobedience again presented, and the fact that the Court of Appeal had overturned the order restraining Penzance, he directed that this order of Suspension be published. This was to take place on 23rd November, the first Sunday after Martin's application.

The Times did not wait to see what would happen on the Sunday next before Advent, but immediately attacked Mackonochie.[50] He had been wrong to appeal to the Queen's Bench

Division in the first place: this was a "vagary of an ecclesiastical lawyer" - a hybrid creature part lawyer and part divine, subject to the contempt of full members of both species - and was "erroneous in principle". It was recognised that Mackonochie was unlikely to obey the Court of Arches, when he had refused to recognise its authority for a decade. That "his attitude has become one of defiance" was not quite true: he had been defiant all along. Mackonochie's suspension was hardly going to resolve the situation, and the Times' description of the suit as "a case which agitates a section of the clergy to the verge of schism, and has excited angry passions among the serene occupants of the Bench of the High Court of Justice" was clearly a heartfelt one. Penzance felt the same way about it himself.

On 18th November 1879, Mackonochie met with his fellow members of the E.C.U. to discuss the tactics which should be pursued at this point.[51]

> After the desirability of an appeal to the House of Lords and of an appeal to the Common Law Courts to test the validity of Lord Penzance's appointment had been considered, it was resolved that the policy in this particular case should be one simply of resistance.[52]

This made it more likely that Mackonochie would be eventually sent to prison for contempt of court, a prospect eagerly welcomed by Ritualists as advancing their cause in the public eye and creating another "Martyr of Ritualism"[53]. The propaganda value of such imprisonments had already been noticed by contemporary commentators and seemed to be lost only on ultra-Protestants.

Martin was more sensible than many of his fellow anti-Ritualists and was reluctant to cause his Vicar's imprisonment. Despite this, both the Times report of the Church Union meeting and a short article which appeared a couple of days later, reprinted from the sometimes scurrilous John Bull Magazine[54], spoke as if Mackonochie was liable at any moment to be arrested and incarcerated. The John Bull article suggested that if he should be imprisoned, a writ of *Habeas Corpus* would be sought, in order to test the very basis of the case - the illegality of the actions which he was alleged to have carried out. This was rather an unclear statement to make and showed no great legal knowledge, since Mackonochie's crimes had

already been declared to be such by appeals to the highest courts in the land earlier in the decade. It still served to illustrate the general confusion which surrounded so many of the Ritualist prosecutions at this time.

Contrary to such expectations, the second phase of the epic struggle Martin *versus* Mackonochie effectively came to its conclusion on the Sunday following ("Stir-Up Sunday" as it was known to Prayer Book *affiçionados* and Christmas Pudding makers), when the Notice of Suspension was affixed to the door of S.Alban's Church by the Dean of Arches' representative. It was shortly thereafter removed by indignant churchgoers arriving for Morning Service. When the Bishop of London's nominee, William Sinclair, arrived to take the service, he was turned away by the Churchwardens: Mackonochie remained in possession of his Church and of the support of his congregation. Reynolds describes the scene well[55]. It was on this occasion that Arthur Stanton, having announced that there was only one topic which was the subject of general discussion throughout the country, proceeded to preach on that subject - the weather, rather than anything more exciting which the congregation might have expected.

Advent 1879 brought few skirmishes between the parties in the Church of England. At Folkestone Parish Church, Woodward encountered difficulty from his vestry when he proposed to apply for a faculty for "a stained glass window in the Church, on one of which *[sic]* is represented a priest celebrating the Communion in Ritualistic vestments and surroundings."[56] Today, Woodward would be able to console himself with the thought of any number of similar items of stained glass to be seen in Anglican Churches, including (in Chichester Cathedral) portraits of some of the Ritualist pioneers in their "ecclesiastical millinery".

Tait's reverent consumption of the Bordesley Green host occurred in mid-December, and on the same day as this event (12th), Penzance pronounced the Vicar of S.Vedast's, Foster Lane to be in contempt of court. Dale had disregarded the inhibition handed down to him in

February, and had furthermore refused to pay costs: the judgement of 12th December was therefore the next step towards the imprisonment which he was challenging his persecutors to impose.[57]

Within a very few days, the new year of 1880 brought with proof that Mackonochie's respite was to be brief indeed. Bishop Jackson agreed to the issue of new Letters of Request, starting a third prosecution against the unfortunate but recalcitrant clergyman, Martin having been unwilling to press for the penalty of imprisonment incurred by Mackonochie's disobedience to his suspension. On 16th January 1880, therefore, application was made to Penzance to hear the case. The charges being "breaches of the ecclesiastical law, and violation of two monitions of the Court"[58], the object was Mackonochie's deprivation. He could then, the theory went, be removed without having to undergo imprisonment. The Times sardonically described this third suit named Martin *versus* Mackonochie as rising pheonix-like from the ashes of the previous suit.[59] The prospect was not entirely welcome. The newspaper attacked Mackonochie vigorously for his lawlessness -

> His great triumph as a law-breaker has been [...] during the past two months. Ever since November 23 it has not been possible for him to perform a service of any kind in St Alban's Church without a breach of the law. He has thus enjoyed a twofold power of offence, and he has taken very full advantage of it. He has officiated where he had no right to officiate, and he has officiated in a manner in which no one had a right to officiate.

But the prospects for success in this latest prosecution were questionable: after a properly legal elapse of time Penzance would deprive Mackonochie of his living, Mackonochie would appeal to a higher Court and then "it will still remain to be seen whether Mr MACKONOCHIE will submit to it." Ultimately, all that continued persecution of the Vicar of S.Alban's, Holborn was going to achieve was notoriety: either he would be imprisoned for contempt and "would be a martyr during his incarceration and for his whole life afterwards", or else he would be suffered to remain unmolested, for fear of a "scandalous scene". The Times' picturesque metaphor suggested clearly which of these two options it considered to be the more likely:

> No one will be found to tread upon the tail of his chasuble, however temptingly it may be trailed.

Even if in Mackonochie's case imprisonment was not a serious option, there were still many Ritualist clergy simmering in Protestant pots and there remained the possibility that a few of them might again boil over. The S.S.C. January Chapter exhibited at least one sign of things to come, when Thomas Pelham Dale "stated that he had recommenced saying Mass in his Church with the accustomed Ritual."[60] The Brethren expressed general satisfaction at this change of tack on Dale's part, resulting from Penzance's pronouncement in December that he was in contempt. Dale had wavered more than once in his adherence to Ritualist policy, owing to the lack of support in his little city Parish[61], but now he would resolutely pursue the course before him.

The following month passed, so far as Ritualists were concerned, quietly; Church circles were much occupied by Burial Bills and Marriage Bills which threatened to liberalise ecclesiastical practice. On 28th February 1880, Penzance sat to hear evidence that Enraght had disregarded the monition imposed the previous August. Accordingly, he suspended Enraght from his office and benefice.[62] Of course, Enraght took no notice of this, and for the time being was suffered to remain in possession of his church without interference. Perkins and the Church Association had been careful to forbear to apply for this hearing until the scandal of the "Bordesley Green Sacrilege" had faded in the public memory.

The supposed Court of Arches sat again on 13th March. This time, Penzance had two cases to consider - Dale's continuing suit and a new prosecution of Baghot-de-la-Bere. The latter was in a position analagous to Mackonochie, vulnerable to being pronounced contumacious and therefore imprisoned. As with the Scotsman, Baghot-de-la-Bere's prosecutors did not wish to use that measure against him and thus obtained Letters of Request from Bishop Ellicott for a fresh suit, with the twofold charge that he had disregarded the monition and ignored the suspension. Penzance agreed to pursue the case.

In Dale's case, application was now made by his prosecutors to enforce the inhibition and

monition of which he had been declared to be in contempt. Penzance granted an order to this effect. The results were familiar: the next convenient Sunday, 21st March 1880, a notice of Dale's inhibition was placed on the doors of his Church, to be immediately torn down by his supporters, and Jackson's nominee who had come to take the services was turned away. An unusually large crowd turned up to watch how things would turn out, but there were no unpleasant demonstrations. The Times reported that:

> There were two celebrations of the Holy Communion, at both of which Mr Dale officiated; and at the 11 o'clock service, which was fully choral throughout, he wore a chasuble, and conducted the service without any deviation from previous practices.[63]

Here was yet another demonstration of Penzance's powerlessness in the face of determined resistance from a Ritualist clergyman.

Throughout March, attention was focussed more on the House of Lords than on the Court of Arches, since it was here that what turned out to be the final act of Carter's prosecution was taking place. Julius' appeal from the judgement in favour of Carter and Mackarness handed down by the Appeal Court at the end of May in the previous year was heard at intervals between 4th and 16th March 1880. It had been generally anticipated that the judgement of the Court of Appeal would be upheld by the higher court and the right of a Bishop to veto a suit brought under the Church Discipline Act definitively safeguarded. The expected decision was given on 23rd March. This constituted an essential building-block for any episcopal attempt to bring peace to the Church of England by preventing cases coming to Court in the first place. As the Times put it:

> It is, therefore, finally settled that a Bishop has an uncontrolled discretion to decide whether a clergyman shall be prosecuted for offences under ecclesiastical law.[64]

It welcomed the triumph of the Bishop and the Canon. The decision prevented the possibility of embarrassing cases in which the complainant was a non-parishioner, the clergyman was highly respected, the alleged offence was trivial or the conduct of the clergyman had been altered since the complaint (the latter a particularly live concern given the prosecution of Enraght). The reinforced episcopal discretion allowed the Bishop "to check excesses on both

sides and to protect variations within reasonable limits" - a remarkable advance away from the ideal of strict uniformity in public worship. Such avowed comprehensiveness would have been unthinkable a few years earlier.

Ritualism "is now left to be controlled by the good judgement of the responsible authorities of the Church." There was a distinct change from the Times' old emphasis on secular laws, to a new-found if not entirely convincing trust in ecclesiastical authority. The idea seemed no longer to be to destroy Ritualism altogether, but to keep it under control and within certain boundaries. To replace the concept of legal constraints on the episcopate, the Times implied that there need be no fear that Ritualism might be encouraged by some bishops, since they would always be operating under the "control of public opinion." Hindsight suggests that this was overly optimistic; no more indeed than a rationalisation springing from the recognition that legal controls on Ritualism were not going to work.

There was also the broader question of the present position of the Ritualist party in the Church of England. Again, there was an element of rationalisation of the obvious failure of attempts to put down Ritualism. The Ritualist Movement continued to exist and to make progress despite all the opposition it had encountered, but it was to some extent, it was suggested, a spent force. "It has ceased to possess the vitality which marked it twenty or ten years ago". Subsequent developments would suggest that Ritualism was far from spent. The accompanying suggestion that disputes about the *minutiae* of liturgy were increasingly irrelevant in an age of scientific questioning and rationalist doubt might also seem a doubtful proposition, given that Parliament was still discussing such details in 1928.

The House of Lords judgement of 23rd March 1880, although settling the interpretation of the Church Discipline Act, meant that Carter's situation was the same as before the original *mandamus* to Bishop Mackarness the previous year. He was not subject to legal threat, yet he was aware that his mode of conducting services was subject to his Bishop's disapproval. He was remaining unmolested, not because his Ritualistic conduct had been condoned, but simply

because of his Bishop's forbearance, and he knew it. Unlike many later Anglo-Catholic clergymen, he did care for the opinions of his diocesan ordinary, and had decided earlier in the case that given a favourable outcome he would resign his benefice. He had had a long ministry and was old and tired now, so it would be no great sacrifice to make. He accordingly offered his resignation the day after the judgement, in a letter which was later published with the permission of the parties involved.[65] As well as emphasizing that Mackarness was already aware of his intentions, he explained that he did not wish to:

> take advantage of your Lordship's forbearance, while continuing to act contrary to your strongly expressed desire, and this in the face of a not undivided parish.

The ultra-Protestants reacted with derision to the House of Lords' judgement. The secular press did not unanimously approve either. Carter's resignation was defended by the Times:

> Common sense and good feeling alike would have been not a little shocked if the decision of the House of Lords had sustained the view that a Bishop has no discretion in dealing with his clergy under the Church Discipline Act."[66]

Likewise, criticism of how Mackarness had exercised this discretion were declared to be irrelevant:

> A discretion of this kind, provided it exists in law, cannot be abridged in practice because the reasons assigned for its exercise are not entirely satisfactory to public opinion.

This was special pleading; apart from in a strictly legal sense, it mattered very much whether the episcopate could be trusted to act appropriately in such cases.

The Times considered that Carter "now virtually acknowledges himself vanquished" in the struggle to promote Ritualism in the Church of England. In fact, he had another 21 years of Ritualist activity in print, in pulpit and in the confessional ahead of him, but no one could know this at the time. He was held up as an honourable example of how a clergyman whose conduct is impugned by his parishioners ought to behave:

> The conclusion to which Canon CARTER has come is one for which, quite irrespective of its premises, all men must honour him.

It was a decision for the good of his parish and made Mackarness' position much happier.

Again, these opinions are of dubious accuracy: the great majority of his parishioners loved and revered him, it seems, and whilst Mackarness disapproved of the extremes of Ritualism alleged against Carter, he thought very highly of him and would have preferred him to retain his cure of souls, despite their disagreements.

On the current state of the movement to which Carter belonged, the Times again contended that it was a spent force. However, the claim that the importance of the Ritualist question "may easily be overrated" was belied simply by the amount of space which newspapers had given and continued to give to the discussion of the subject. The questions involved in Ritual disputes, it was argued, were unimportant to modern minds, compared with the more far-reaching questions proposed by "free inquiry". Ritualism, by such reckoning, was a further bulwark against liberalism: it was a "theology which takes all its first principles for granted" in an age when it is becoming more common to "discuss first principles with an eagerness not entirely to be commended."

The Times also made an aesthetic point. The ecclesiastical art of the Pugin generation was no longer fashionable - a further mark of Ritualism's loss of impetus. It had "absorbed the reviving aesthetic impulse of the generation in which it grew," but by 1880, the Gothic revival had been overtaken by architectural classicism. But here too, the attempt to "do down" Ritualism was not entirely anti-Ritualist in its effects, in that the conclusion to be drawn from the declining interest in ecclesiastical art was that "Ritualism has lost not a few of the less sincere and ardent votaries it formerly used to attract." This could obviously be a very good thing for the Movement, as has already been observed with the events in the S.S.C. following the *débacle* over the Priest in Absolution. There was even an admission that Ritualism still had a "vitality in certain directions".

Carter's resignation and the House of Lords judgement which preceded it brought an end to the Clewer Ritual Case. The attempts to defeat Carter in the Courts had been failures, and his removal was due to his own conscience and high view of episcopal authority. Fong

commented that this episode

> set the Church fairly on the road to an internal solution of its problems and it marked the end of the recognition of the allegedly Elizabethan ideal that every parishioner had the right to enforce the Act of Uniformity.[67]

Certainly the case provided bad publicity for the secular Courts, with two identically sized benches of judges coming to contradictory decisions[68], and the means for Bishops to prevent any future prosecutions. Nevertheless, to anti-Ritualists, the case was not an out and out defeat: Carter, far from escaping unpunished, had lost his cure of souls. Equally, the new emphasis on the role of the Bishop in action concerning Ritualist clergymen suggested to the ultra-Protestant party the need for anti-Ritualist feeling to be disseminated with renewed vigour, so that the Bishops would shape their actions to public opinion. As the year progressed there would certainly be no let-up in the Church Association onslaught. The Carter Case, in short, was a defeat not for Ritualism or its opponents, but rather for the existing structure of ecclesiastical laws and courts. The only winners were the Bishops and whoever the policy which they adopted would favour.

Between Carter's resignation and June 1880, few moves of significance in the Ritualist struggle occurred. At the start of April, Dale's Easter Vestry meeting at S.Vedast's, Foster Lane was tumultuous. Despite the fact that all present opposed him, he was able to give an impassioned defence of his conduct and beliefs:

> What was called Ritualism was with him a matter of Faith, and he and those who agreed with him did not intend to give it up.[69]

A couple of weeks later, there was a demonstration of episcopal forebearance in a case of moderate Ritualism. This was at S.Michael and All Angels, Chiswick, consecrated by Bishop Jackson on 19th April and the subject of complaints by the Churchwarden of Chiswick Parish Church.[70] The new Vicar, Alfred Wilson, was a member of the E.C.U. and had invited Father Ponsonby of the extreme Ritualist Church of S.Mary Magdalene's, Munster Square to preach; the concrete complaint against him was the use of coloured stoles. Jackson soon took the wind out of the sails of the protesters, replying that he

> considers a white stole as illegal as a black one, but so long as the latter is worn

> without interference or complaint in almost every church, he deems it unreasonable to forbid a white one.[71]

May 1880 brought with it the usual round of annual meetings. The S.S.C. discussed Carter's resignation and whilst extending sympathy to him, took a more hard-line view, looking on his decision as unfortunate since too much influenced by personal regard for his Bishop.[72] At the other end of the ecclesiastical *spectrum*, the Church Association took the opportunity to reflect upon the course it was following: it allowed itself a congratulatory review of its achievements since its foundation in 1865, noting especially that it had grown each year in the number of branches and supporters (at the time it now had 398 branches and approximately 14,000 members). But it decided that ecclesiastical legislation needed to be amended in order to provide a right of appeal from the "absolute power of the Bishop to shield offenders against the law"[73] - another recognition of the inadequacy of the P.W.R. Act. There was to be no let-up in the current prosecutions, further prosecutions were still to be instituted despite the weakness of the Courts, and all the Association's attempts to excite public feeling against the Ritualist clergy were to be redoubled. This show of strength on the part of the ultra-Protestant party may be put in context by comparing these membership numbers with those given on 27th May by Canon Carter in his capacity of Superior General of the Ritualist devotional organisation, the Confraternity of the Blessed Sacrament. He was addressing the thirteenth anniversary meeting of the Confraternity and stated that its membership consisted of over 900 clergymen and 12,000 laypeople. The meeting itself was an impressive display of strength:

> The larger hall was filled with members of the confraternity, and a side room was devoted to an exhibition of vestments, "altar linen", and other objects of ecclesiastical art and interest.[74]

Carter was in a hopeful mood: as well as speaking of a "turn in the tide of popular feeling towards the Catholic section of the Church of England", he believed that there would be no further prosecutions for extreme Ritual, since the Bishops would not allow new suits.

Such euphoria was all very well, but the existing cases were still a barrier to peace in the Church: on 5th June, Penzance sat as Dean of Arches to hear the new case against

Mackonochie. He gave a novel judgement, refusing to issue a sentence of deprivation and by implication criticising Martin for not using every tool provided by the law in order to enforce the earlier sentence of suspension. He did

> not think it would be consistent with the due maintenance of its authority that this Court should pass a solemn sentence of correction, and while that sentence was still subsisting, but wholly disregarded, pass a second sentence, directed to the same end, without any allusion to the first, or attempt to punish its non-observance.[75]

As the Church Times put it, Penzance's message to Martin was that he was "utterly sick of you and your suits; and if I never heard of you again I should be quite content".[76] Whilst Penzance's attitude was strictly in accordance with the law as it had been decided, the complainant was unwilling to accept the rebuke and, motivated also by old age and infirmity, announced on 14th June his intention to withdraw from the prosecution. He did not wish his Vicar to be imprisoned, and pointed out that such an outcome to ecclesiastical prosecutions had never been considered when he made his first complaint over a decade beforehand:

> When proceedings were originally taken it was understood that their object was simply to ascertain authoritatively the law of the Church on certain points, which, when ascertained, would be acquiesced in on both sides and obeyed. It never occurred to me, nor I suppose to any one else, that the judgement of the Courts of law would be set at defiance, and that obedience could only be enforced by imprisonment.[77]

It seemed that Mackonochie would go unmolested. He did, however, still have Penzance's sentence of suspension made on 1st June 1878 hanging over his head, and the threat which he himself had made to appeal to the House of Lords against the legality of his suspension. These provided the next moves in the intricate dance.

The Bishop of London accordingly had notice of the sequestration of the benefice affixed to the door of St Alban's, Holborn on Sunday 4th July 1880. This theoretically served to enforce the order of suspension, but in practice its main effect was in the words of the Church Times to "relinquish the attempt to turn out Mr Mackonochie, and yet to seize his tiny pittance"[78]. This, together with the continued insistance from the Church Association that Martin's costs had to be paid, persuaded Mackonochie to go ahead with the appeal against the legality of the suspension. After all, if Mackonochie did not continue the appeal, he would be tacitly

accepting the suspension, and besides as the E.C.U. pointed out, so far there had been a very even division of judicial opinion:

> In the Queen's Bench a majority of one being against the legality of the suspension, and in the Appellate Court, a majority of one having reversed that judgement. Lord Chief Justice Cockburn, Lord Justice Brett, Lord Justice Cotton, and Mr Justice Mellor were against the legality of the sentence of suspension, and Lord Justice Coleridge, Lord Justice James, Lord Justice Thesiger, and Mr Justice Lush affirmed it.[79]

At the time of the sequestration there was some considerable public excitement, with "a very large congregation" assembling on 11th July at Mackonochie's Church, "there being an impression that some further steps would be taken in connexion [*sic*] with the notice of sequestration"[80]. But no pyrotechnics occurred and on 19th July it was announced that Mackonochie's appeal would not be heard until after the long vacation[81]. Public interest accordingly turned elsewhere.

At the end of July things started to move in the three crucial Ritualist prosecutions - Thomas Pelham Dale, Richard William Enraght and Sidney Faithhorn Green. The remainder of the year was to be dominated by these cases, accompanied by increasingly earnest bids for ecclesiastical peace on the part of the ailing Archbishop Tait.

Tait was horrified to learn that the Church Association was aiming to get these three Ritualist clergymen imprisoned as contumacious clerks, especially since the Church was already agitated about the Burials Bill. He had no success in persuading the persecuting party to avoid this extreme measure, partly because the Association wished to use the imprisonment of the three clergy as a lever to get the legislation altered and to teach the Bishops a lesson or two about being soft on Ritualists. Tait had as little success with Penzance, whom he also attempted to persuade towards lenience, and Tait's subsequent attempts to get at least one of the clergy to accept a Bishop's nominee during his suspension also failed miserably.[82]

On 24th July 1880, an application was made to Penzance for an order declaring Green to be in contempt of court because of his failure to pay the bill of costs for his prosecution. This

amounted to almost three hundred pounds, and Lord Selborne later declared that this was a "great scandal"[83]. This was followed up on 5th August by the potentially more harmful application for a writ *significavit* notifying Green's contempt of the inhibition which Penzance had ordered almost exactly a year before on 9th August 1879. This was liable to lead to Green's imprisonment, and was blocked at least temporarily by the technical objection that the application should have been made at York, Green belonging to the Northern Province, and the consideration was held over to the next sitting, fixed for the end of October.

On the same day as the application was made for Green to be declared contumacious, identical applications were made against Enraght and Dale. These too had to stand over until 28th October, but there was little to impede Dale's swift imprisonment. Of the application against Enraght, Penzance was less certain, since the "papers were in a most irregular condition"[84]. The action was thus suspended until the next sitting of the Court; until October Penzance could concentrate on his roses and the three clergymen could continue unimpeded in their Ritualist lawlessness.

Tait meanwhile continued his efforts to achieve some kind of truce. On 31st August he gave a charge to his clergy at Croydon, during which he attempted to placate the persecuting party. He tried rather unconvincingly to suggest that the 1874 Act had worked, that the examples made of various Ritualist clergy had meant that the movement to which they belonged had been "scotched if not killed"[85]. It was time for a new peace to descend on the Church - a unity involving all that was good from the Oxford Revival. The Church Association was not susceptible to such archiepiscopal blandishments, but it provided occasion for reflection on the contribution of the Oxford Movement to the Church of England. It is a measure of how far the ripples had extended from the Oxford Revival by this time that the claim could be made:

> For England, the most important religious movement of the age has been, beyond doubt, the so-called Oxford revival. The modern English Church has taken shape under it, and has become thereby what it did not even profess to be before.

The Church had become more liturgically-minded: Ritualism "has brought with it an

observance of duties and an appreciation of the outward forms of religion". But its influence had also made the Church less Protestant:

> It has made it less easy and less possible for Churchmen and Nonconformists to act or to feel together.

Such considerations hardly supported Tait's contention that although Ritualists frequently escaped unhindered in the short term, the Movement was disintigrating in the long run.

The Croydon Charge was at the end of August, and a couple of weeks later the attention of the Ritualist party was occupied by the death of the founder of the S.S.C., Charles Lowder. Ellsworth describes the circumstances of his demise on holiday on 9th September[856], and the scenes of sadness in his parish, S.Peter's, London Docks, when the news broke there. Naturally, the Society's September Synod was characterised by an "air of restrained solemnity"[87]. Lowder had been due to take an important part in bringing forward a motion on the revival of the first rubric in the Holy Communion service with the object of preventing profanation of the Sacrament by strangers. Nihill, in the event, took his place and also proposed:

> That this Synod desires to record its solemn sense of gratitude to almighty God for the long and earnest services and bright example of the holy life of their deceased brother, V[icar] Br.Lowder, Senior Brother of S.S.C., and first Master; and hereby offers an expression of sincere sympathy to the surviving members of his family, fellow-workers and parishioners, and hopes that the Society of the Holy Cross may be allowed to be represented at his funeral.[88]

Penzance was next due to sit on 28th October, but just under a week before this (22nd), Green was served with a copy of a sequestration of his personal property in consequence of the hearing of 24th July regarding the unpaid costs of his case. The Church Association were, it seemed plain, out to create a martyr of him in as many ways as possible. As yet, however, it was simply a legal notice and he was still in possession of his property for the time being.

On the 28th, all three cases were under consideration. Green's was adjourned immediately to 20th November, as was Enraght's; the sole reason for this forbearance was to give them time to reconsider their situations in the light of that of the third of their little group. Penzance

declared Dale in contempt and issued a writ *significavit* in order to notify the Court of Chancery of the fact. Two days later, he was arrested under the Lord Chancellor's writ and lodged in Holloway Gaol.[89] It was approaching four years since Tooth's release and perhaps the effects of this in the public mind had been dulled by time. Those who had forgotten what the imprisonment of a Ritualist clergyman would entail were soon reminded with a vengeance: the Church Review[90] reported that fifty Churches had offered public prayer for him, and in many of them his Martyrdom formed staple material for sermons. Tait attacked the Church Association's procedure both in the Times[91] and, directly, in the Association's own organ, the Monthly Intelligencer[92]: in both his suggestion was that Dale's three year inhibition should have been allowed to run its course and if he was still in contempt at the end of that time he would lose his benefice under the terms of the P.W.R.Act. Dale was now behind bars and there was no obvious way of getting him out again. Tooth had been released because of technical faults in the conduct of his case, and as things stood, Dale's imprisonment would simply continue until such time as he resigned his benefice (which he would not) or it became void under the Act (which was not until 8th February 1882). Tait had also to worry about what would happen when Penzance sat again on 20th November to deal with Green and Enraght.

Bishop Philpott of Worcester, acting on Tait's advice, attempted to forestall Penzance by sending Enraght a further "Direction" on 2nd November. This dealt with the seven points of which Enraght had been accused which until now he had held to be either completely false or misrepresentations of the truth. Enraght considered this procedure odd and Philpott explained:

> My object in writing to you [...] was mainly to get the power of making a Representation to the Court of Arches, which might have the effect, if I could gain a hearing there, of inducing the Judge to look leniently on the charge of contempt of court which will probably be brought against you.[93]

Enraght refused to cooperate, holding that if the Bishop had really wished to help he would have intervened earlier in the day. Besides, he did not recognise Penzance as Dean of Arches.

There was also further trouble in Liverpool. Bishop Ryle refused to allow a complaint against Cox of S.Margaret's to reach Penzance's Court,[94] but also refused to license Cox's new curates unless he brought his services into line with the judgements of the Privy Council.[95] Cox was thus left over-worked but for the time being unimpeded by legal hostilities.

At his next sitting, Penzance ascertained that Enraght and Green had not been frightened into submitting to the inhibitions, and pronounced both of them to be in contempt. This was signified to the Court of Chancery, but Green could not legally be imprisoned yet, since his property had not been seized and legally this needed to be done before his living could be sequestrated. Enraght's case however had no such impediment and on 27th November 1880 he was arrested and lodged in Warwick Gaol. Two clergymen were now in prison and to a large number of people such a punishment seemed excessive. The Times was hard-hearted and pointed out that Dale and Enraght could have left the Church or tried to get its laws altered whilst still obeying them.

> We do not blame their conduct in the abstract, however much we may deplore its want of judgement. But we wholly decline to regard them as martyrs, or to accord them any more sympathy than we should give to other wilful breakers of the law, whose motives, however mistaken, are unimpeachable.[96]

Others did not feel the same about the matter: one bishop had his carriage windows smashed by irate High Churchmen, and there continued to be an outcry in the sections of the press sympathetic to the Ritualist cause. Legally speaking there was no way to extract the two clergymen from their cells against their will until their benefices were legally declared void.

Nevertheless, attempts of various kinds were being made to release them from their martyrdom. On 29th November, an application was made in the Court of Queen's Bench for Dale's release under a writ of *Habeas Corpus* and for a prohibition to stop further proceedings on a variety of technical grounds. A rule *nisi* was granted straight away, and a similar application was made on Enraght's behalf too on 7th December. The rules *nisi* were heard on 13th December and Dale's was immediately overturned because the technical breaches of procedure which had been alleged did not stand up to examination.[97] In

Enraght's cause it was urged that "he had been inhibited for doing various acts which he had never been admonished not to do"[98]. Nevertheless the rule *nisi* was also overturned in his case. Consequently the E.C.U. lodged appeals from these judgements of the Queen's Bench Division. These were heard by the Court of Appeal on 18th December at Westminster, the timing in itself being a measure of the urgency with which the authorities wished to get the two martyrs out of gaol. Both cases were then deferred until after the vacation, but it was decided that Dale and Enraght could be released on the understanding that neither would assume any duties until the case was settled. It is a reflection of the lack of cohesion in Ritualist policy even at this stage that the two clergymen responded in different and opposite ways to this offer of bail. Dale accepted it and was accordingly released on Christmas Eve, thus bringing to an end his eight weeks of imprisonment, whereas Enraght refused it on the grounds that:

> "The proposed order for my release takes for granted my obedience to Lord Penzance's inhibition in all respects" (Letter to the Churchwardens, dated -"Her Majesty's Prison, Warwick, Dec.20").[99]

Enraght would seem to be the more consistent, and also wiser considering the effect of the imprisonments on popular perceptions of the issue.

The Times, when the Appeal Court decision of 18th December became known and before it was realised that Enraght would refuse to avail himself of the chance of bail, commented on the subject of "Ritualists and the Law"[100]. It was torn between continued disdain for the lawless Ritualists and their "very hollow and factitious martyrdom" and the admission that the effect of this martyrdom was considerable despite its hollowness. Many people felt "simple and happily uninformed compassion" for Dale and Enraght, and their imprisonment was liable to be seen as "putting their opponents very clearly in the wrong". Nevertheless, the rule of law had to be upheld and if Ritualists were to be allowed to get away with their practices, Churchmen at the other extreme might well abandon traditional features of Anglican practice:

> The battle is now about a chasuble, but it may prove the surplice that is at stake.

At the same time as the Appeal Court decision on Dale's and Enraght's release, Tait made

his desire for conciliation more public. This came on 17th December in a speech at Westbere, in which he spoke of "the absolute necessity, if you are dissatisfied with the present state of matters, of gravely and calmly considering the side issues raised in this controversy about ritual."[101] He wished Ritualists to make concrete suggestions of what they really wanted with regard to the constitution of the Courts, the powers of Convocation and the remit of episcopal authority. As the Times remarked a couple of days later, "nothing can be more rash than to find fault without suggesting a remedy - to destroy and have nothing even to propose in the place of that which is destroyed." Tait had made no secret of his disapproval of the imprisonments and the Westbere speech seems to have marked a turning away from the ultra-Protestant party in despair at their ever producing a peaceful solution to the Church's difficulties, and a closer approach to moderate Ritualists who might be more inclined to a sensible outcome.

Unmoved by such conciliation, on S.Thomas' Day[102], Penzance gave notice that:

> on January 8, he would, if nothing intervened, pronounce sentence of Deprivation on Mr Baghot de la Bere.[103]

Tait cannot have taken comfort from this unseasonal reminder that, behind Dale and Enraght, there was a queue of other clergymen, headed by Green, but with Baghot de la Bere not far behind, awaiting in turn their martyrdoms.

Before the Courts could sit again in the new year of 1881, one of Tait's closest allies within the episcopate, Bishop Claughton of Ely, attacked the policy of the Church Association to date. The Association's fondness for prosecutions worked only to strengthen the hands of the E.C.U. by allowing

> certain sincere, though misguided clergymen to pose as martyrs, on grounds, doubtless, most unreal, but nonetheless misleading to the large number of persons who do not care to look closely into such things.[104]

Also, the Church Association's behaviour had had a very harmful effect on the working of the P.W.R.Act, since it "especially required wise and forebearing use to make it successful", and this was hardly what it had in fact received. Claughton was effectively acting as Tait's

mouthpiece to appeal for the administration of ecclesiastical discipline to be left to the Bishops themselves.

An obvious response to Claughton's comments was voiced by the Secretary of the Church Association (W.C.Palmer[105]): between the Address of the Archbishops and Bishops in 1851, calling for a "united address" of the problem of Ritualism, and the foundation of the Church Association in 1865, what Claughton was calling for had indeed happened: the problem had been left to the episcopate with the result that the number of Ritualist clergy had steadily grown and nothing had been done to combat the development. He did not trust the Bishops any more than Ritualists did. Palmer also pointed out that Bishops had claimed in the past that they could not afford the heavy costs of prosecutions, so they ought to be grateful to the Church Association for defraying these expenses. It was then not in the financial interests of the Church Association itself to "multiply prosecutions" and he declared that it would be all too pleased

> to be relieved from the disagreeable task so soon as a general determination on the part of their Lordships to require and insure obedience to the law has been manifested.

On 8th January 1881, Penzance pronounced a sentence of Deprivation on John Baghot de la Bere. Immediately, Baghot de la Bere applied to the Master of the Rolls for a rule *nisi* to be granted. This was accepted, so Penzance and the promoter of the suit had to show why a prohibition should not issue against the publication of this sentence, and the case was further stalled.[106]

Three days later, the Court of Appeal sat to hear appeals from Dale and Enraght. This took five days, ending on 16th January. Dale had been released on bail before Christmas, and therefore his case was less urgent than Enraght's, who continued to languish in Warwick Gaol. Both cases involved similar arguments: firstly that disobedience to the inhibitions pronounced against both clergymen by Penzance was not a matter for imprisonment and secondly that the writs had been improperly issued. The first point, being contentious in the extreme, was decided in favour of Penzance and the Establishment, but the appeals were

upheld on the second ground. Roberts explained the mechanics of the point:

> The Court held that it was "not a matter of form," but "a matter of substance" that "the writ which was issued from the Court of Chancery, from the Petty Bag office, should be brought into the Queen's Bench and opened there, in order that the judicial mind might, if necessary, be addressed to the *significavit* to see whether it was such a writ as the Court of Queen's Bench would take upon itself to execute." As this had not been done, the Appeal was sustained on this point.[107]

In Enraght's case, there was the additional factor that it was alleged that his inhibition had been based on a false bill of charges against him, but this was ruled to be a question of fact into which the Court was unable to inquire, and his appeal was accepted for the same reason as Dale's - the defects of the handling of the writ *Capias*.

Theoretically, both clergymen were liable to being committed to prison again, since all that had been decided was that the wrong procedure had been followed. The Church Association could simply apply again to Penzance for writs *significavit* and this time ensure that the resulting writs *Capias* were opened in the presence of the Justices of the Queen's Bench rather than in the dark recesses of the Petty Bag Office. The randomness of the legal system was exhibited by the fact that subsequently such a renewal of the application was made in Enraght's case, but not in Dale's. There were two reasons for the forebearance in Dale's case: his Church had been closed by his (hostile) Churchwardens "for repairs"[108] and so whether or not he wished to continue in contempt of his inhibition, he was physically unable to do so by officiating at S.Vedast's. There were also negotiations going on behind the scenes which led to his resignation from his London benefice, in order to accept the rural benefice of Sausthorpe, near Skegness[109] - a great contrast to the parish where he had spent his previous 34 years. Dale's arrival in Lincolnshire prompted the resignation of the local Archdeacon[110] and led him to have to affirm

> His willingness to be governed and guided by the spiritual authority and counsel of the Bishop of the diocese, and to make no changes in the public services as now conducted in the parish church at Sausthorpe.[111]

At least this new position afforded him leisure to compose a pamphlet on his treatment by the Church Association, subtitled "A Remonstrance addressed to all true Evangelicals"[112].

Hostile opinion was concerned to do down the victory of Dale and Enraght as efficiently as possible - whilst the Appeal Court decision exemplified once more the "glorious uncertainty of the law", the two clergymen had escaped through a technical loophole:

> Not a point has been decided in their favour which has the remotest bearing on the doctrines for which or against which they have been striving.[113]

The Times ignored the public sympathy which their imprisonment had gained for them, and emphasised the need for simplification of the legal system made apparent by "Saturday's absurd collapse". Rationally, it was correct: Dale was about to go into voluntary exile in the provinces, Enraght was again under attack by his prosecutors and the victory had been on the most technical of grounds; nevertheless their imprisonments had had a significant effect.

Whilst the Appeal Court was dealing with Dale and Enraght, on 11th January Tait had been presented with an appeal for toleration in matters of Ritual. The three or four thousand signatories were headed by the moderate High Church Dean of S.Paul's, Richard Church, and their claim was that toleration was demanded both by justice and the good of the Church. The Times was unimpressed, noting that the ceremonial was important only for the doctrine it symbolised and "it is idle to expect toleration from those to whom the doctrine is hateful."[114] It did however assert that "absolute uniformity" would be "neither obtainable nor desirable", although the usual *caveat* was appended to this observation that:

> In large towns, diversity of ceremonial does comparatively little harm. If a man dislikes the service at his parish church, he may probably find one more to his liking in the next street. But the country worshipper has no choice but to be content with the service provided for him.

This last point was picked up by an anonymous correspondent who urged that country folk had more than Ritualism to worry about:

> What are people to do who think Calvinism immoral or Latitudinarianism ruinous to religion?[115]

This correspondent also pointed out that the doctrines symbolised by the illegal Ritual had never been condemned, as did Pusey the following day. He also made great play of the supposition that the Ritualist Movement had been "especially the work of the laity". This

could be seen as rather overstating his case, although the E.C.U. (which organised the Appeal for toleration) was indeed lay-dominated. Equally tendentious was the claim that "Ritualists do not ask to interfere with the devotions of others"[116]. The same day "An English Churchman" wrote prophetically:

> I venture also to think that it is impossible for dress to express doctrine, because many articles of dress, and in particular those which the Ritualist delights in wearing, are and have been exponents of doctrines exactly the opposite of those which they are now alleged to symbolize.

This commentator at least would not have been overly surprised to see the present state of Anglican practice.

There was at the same time as Church's Appeal an equally impressive petition from the Church Association calling for the more rigorous use of the legal system against Ritualists. Little of any new spirit of tolerance was visible in the Courts either, as Mackonochie's appeal to the House of Lords against the judgement of the Appeal Court commenced on 18th February. It was heard before the Lord Chancellor (Selborne) and three other equally distinguished peers, and judgement was deferred until April.[117]

On 9th February 1881, Convocation had met and Tait again advocated his particular brand of toleration. The Times saw this as an admission of impotence - "No wonder they speak softly and act cautiously when they can do nothing"[118] - but Tait was at last able to reveal a new instrument to bring peace to the Church. This came on 7th March with his request, accepted by Lord Selborne on behalf of the government, for the appointment of a Royal Commission

> To inquire into the constitution and working of the Ecclesiastical Courts, as created or modified under the Reformation Statutes of the 24th and 25th years of King Henry VIII, and any subsequent Acts.[119]

As well as providing a further excuse for the exercise of the episcopal *veto* in any further attempted Ritualist prosecutions, this expedient promised at least the possibility of a longer term settlement of the situation. The Times considered the problem ultimately insoluble in terms of legislation: a spirit of tolerance between the factions could not be created artificially, and any legislative changes which resulted from the Commission were likely to be the subject

of further controversy. The ultra-Protestants would not settle for any form of tolerance, whilst the Ritualists would not be brought to heel by rendering the law more effective. It might be unduly cynical to observe that Tait was more concerned for peace in his lifetime than the more distant results of the initiative.

The twenty-five members of the Royal Commission were selected by Gladstone with much of Tait's influence apparent: Marsh calls them a "representative, well qualified group"[120] and this would seem a fair judgement. They did not set to work until May, but even this was relatively rapid progress for such a Commission. In the meantime, the Ritualist "persecution" reached a more serious stage.

NOTES ON CHAPTER FIVE

1 Ellsworth, p160.

2 cf J.H.Evans, Churchman Militant; George Augustus Selwyn Bishop of New Zealand and Lichfield.

3 Roberts, p211, and see F.D.How, Archbishop Maclagan, p191-4

4 Times, 14 January 1879, p10d.

5 *ibid.*, 16 January 1879, p10b.

6 W.H.Hutchings, Life and Letters of Thomas Thelluson Carter [...], London, Longmans, 1904, p150-179 and C.C.Mackarness, Memorials of the Episcopate of John Fielder Mackarness [...], Oxford, Parker, 1892, p86 -98.

7 Mackarness, p92

8 Palmer, p16.

9 Roberts, p209 erroneously states that Mackarness was refusing to implement the Public Worship Regulation Act in this case.

10 Times, 22 January 1879, p9f.

11 Roberts, p209.

12 Times, 10 February 1879, p6d.

13 *ibid.*, 1 March 1879, p9d.

14 *ibid*., p9c.

15 *ibid.*, 10 March 1879, p9b.

16 Roberts, p210.

17 Times, 21 March 1879, p9c.

18 Times, 27 March 1879, p11c.

19 For contrasting accounts of this former pornographer, see J.C.Wilcox, John Kensit, Reformer and Martyr: A Popular Life, London, Protestant Truth Society, n.d.[1903?], p67-77 and Dom Anselm Hughes, p30. I give the latter:

> In 1902 Kensit unwisely provoked a disturbance among the Irish Roman Catholics of Liverpool - a tougher lot than the churchgoers of Philbeach Gardens - was struck with a chisel and laid low. Shortly afterwards he died of double pneumonia, unconnected with the wound.

Perhaps the most fitting memorials to this character are firstly the Misericord in his likeness and entitled "The Brawler" at S.Cuthbert's, Philbeach Gardens, Kensington (Hughes, Plate III) and Bishop Mandell Creighton's comment that "We are all agreed in regretting that there should be such a person as Mr Kensit."

20 Times, 25 November 1879, p7f.

21 Enraght, p13.

22 *ibid.*, p13-14.

23 This pamphlet does not seem to have been published, events having moved faster than the printer could keep up with.

24 Times, 1 May 1879, p10b.

25 T.Hughes, p261

26 Times, 6 May 1879, p10b.

27 *ibid.*, 24 April 1879, p11e.

28 K.S.C., Ch71, A8, Analysis of Proceedings of May Synod 1879.

30 Times, 31 May 1879, p11c.

31 Roberts, p225.

31 *ibid.*, p207.

32 Times, 30 June 1879, p11b.

33 That of 28th June 1879, the majority judgement, delivered by Thesiger on behalf of himself, Coleridge and James, those in dissent being Cotton and Brett. c.f. Roberts, *op.cit.*, p207.

34 Roberts, p223 and Reynolds, p238f.

35 Roberts, p217.

36 *ibid.*, p218.

37 *ibid.*, p221-2.

38 Roberts, p219.

39 cf Tract 4.

40 Enraght, p14.

41 Roberts, p226.

42 Enraght, p18.

43 Roberts, p225-6.

44 Fong, p369.

45 Roberts, p227.

46 K.S.C., Ch.71, A8, Analysis of Procedings of September Synod 1879, p15-16.

47 Times, 11 October 1879, p9c.

48 Roberts, p208.

49 *ibid.*, p224.

50 Times, 17 November 1879, p9c.

51 *ibid.*, 20 November 1879, p9f.

52 Times, 20 November 1879.

53 This is of course the title of Michael Reynolds' book about Father Mackonochie.

54 Times, 22 November 1879, p10d; John Bull Magazine, 20 November 1879.

55 Reynolds, p232.

56 Times, 21 November 1879, p6e; c.f. also 27 November 1879, p11c.

57 Roberts, p224.

58 *ibid.*, p223.

59 Times, 19 January 1880, p9b.

60 K.S.C., Ch.71, A9 S.S.C. Printed Acta and Addresses 1880-1883, January Chapter 1880, *passim.*

61 At the time, Dale really only had support from the local Church of England Working Men's Society. Nowadays, S.Vedast's is one of the few functioning Churches in the area and retains a vaguely High Church atmosphere. Bombed out during the last war, it was tastefully refurnished with items rescued from other Wren Churches in the city. When I visited it, there was a smell of incense in the air, but also advertisements for a "Taisé" service... For more information on the Church itself, see Paul Jeffrey, The Church of St. Vedast-alias-Foster, City of London, Ecclesiological Society, 1989.

62 Roberts, p226.

63 Times, 23 March 1880, p7f.

64 *ibid.*, 24 March 1880, p9b.

65 *ibid.*, 27 March 1880, p8a.

66 *ibid.*, 29 March 1880, p7c.

67 Fong, p363.

68 Times, 31 May 1879, p11c.

69 *ibid.*, 3 April 1880, p5b.

70 *ibid.*, 19 April 1880, p6f.

71 *ibid.*, 22 April 1880, p13a.

72 K.S.C., Ch.71, A9, May Synod Acta 1880, pp8-10.

73 Times, 13 May 1880, p10d.

74 *ibid.*, 29 May 1880, p12f.

75 Roberts, p223.

76 Church Times, 7 July 1880.

77 Letter to Bishop Jackson, 14 June 1880, quoted, Roberts, p230.

78 Church Times, 9 July 1880.

79 Roberts, p229-230.

80 Times, 12 July 1880, p8a.

81 *ibid.*, 20 July 1880, p11d.

82 Marsh, p264f.

83 On 7 May 1881 - c.f. Roberts, p233.

84 *ibid.*, p234.

85 Times, 1 September 1880, p9d.

86 Ellsworth, pp164-9.

87 Embry, p153.

88 K.S.C., Ch.71, A9, Acta of September Synod 1880.

89 Roberts, p231.

90 Church Review, 5 November 1880, p549.

91 Times, 23 November 1880.

92 Monthly Intelligencer, 1 December 1880, p344.

93 Enraght, p22.

94 M.L.Loane, John Charles Ryle, 1816-1900, 1953, p50.

95 Times , 20 November 1880, p5f.

96 *ibid.*, 24 November 1880, p9c.

97 Roberts, p231.

98 *ibid.*, p232.

99 Roberts, p233.

100 Times, 20 December 1880, p9e.

101 *ibid.*, 18 December 1880, quoted Marsh, p267.

102 21st December, rather than the date to which modern liturgical reformers have moved this feast in the Roman Catholic and Anglican Communions.

103 Roberts, p235.

104 Times, 5 January 1881, p11c.

105 *ibid.*, 11 January 1881, p11f.

106 Roberts, p235.

107 *ibid.*, p231-2.

108 cf Jeffrey, p19. Presumably, these repairs were preparatory to the major alterations of 1884-6 detailed by Jeffrey.

109 Bentley, p103 erroneously places Sausthorpe in Berkshire.

110 Times, 27 April 1881, p6e.

111 *ibid.*, 12 May 1881, p10a.

112 T.P.Dale, The S.Vedast Case: A Remonstrance Addressed to All True Evangelicals, G.J.Palmer, London, 1881.

113 Times, 17 January 1881, p11b.

114 *ibid.*, 12 January 1881, p9b.

115 *ibid.*, 13 January 1881, p4f.

116 *ibid.*, 14 January 1881, p8d.

117 Roberts, p230.

118 Times, 10 February 1881, p9c.

119 *ibid.*, 8 March 1881, p9c.

120 Marsh, p274.

CHAPTER SIX: THE SHATTERING OF THE ACT - GREEN'S IMPRISONMENT 1881 - 1882

Our fathers, chained in prisons dark,

Were still in heart and conscience free:

How sweet would be their children's fate,

If they, like them, could die for Thee!

Faith of our fathers! Holy Faith!

We will be true to thee till death,

We will be true to thee till death.

- Faith of our Fathers.

Early in March 1881, an application was made to the Lord Chancellor for the removal and sale of Sidney Green's property to pay the costs of his prosecution and in conformity with the notice of sequestration which had been served upon him the previous Autumn. This was opposed and the case adjourned until the start of April, on the grounds that Green was appealing to the Queen's Bench and this might render the entire proceedings to enforce costs of no effect. Before this hearing, upon the renewal of the Church Association application, Green was finally arrested after a delay of four months, and imprisoned in Lancaster Castle on 19th March[1]. On 2nd April, the Lord Chancellor again deferred hearing the case about Green's property and instructed the Church Association to renew its application once the Queen's Bench appeal had come to its end.

On 6th April, 1881, the E.C.U. lawyers acting for Green attempted to obtain his swift release by applying to the Court of Queen's Bench for a writ of *Habeas Corpus*:

> It was alleged (1) that Lord Penzance had no jurisdiction, sitting at Westminster, to hear the case and issue a *significavit*; (2) that the whole of the proceedings after the *significavit* were void, inasmuch as the Vice-Chancellor of Lancaster had no jurisdiction in the matter to issue the writ; (3) that, even assuming that he had such jurisdiction, he could not exercise it in Lincoln's Inn.[2]

The judges refused to grant the required rule *nisi*, which would force Penzance to defend his actions. Green accordingly appealed on 8th April to the Court of Appeal. Here he had a little

more success in that the the rule *nisi* was granted, but when the rule was argued on 12th April, the unanimous ruling favoured Penzance. Green remained in prison, and was now also vulnerable to any renewal of the Church Association's earlier application for the removal and sale of his personal effects.

Meanwhile, the judgement of the House of Lords was given on 7th April, on Mackonochie's appeal from the Court of Appeal which had, in its turn, set aside the prohibition of the Court of Queen's Bench. The Lords upheld the Court immediately beneath and thus declared Penzance's suspension of the Vicar of S.Alban's, Holborn *ab officio et beneficio* to be valid in law. Roberts expressed disgust at this judgement:

> The general effect of this decision was, that a priest against whom a monition under the Clergy Discipline Act has once been issued, remains liable, during the rest of his life, to summary suspension, without a fresh suit, if he should at any time infringe the motion*/sic/*[3]

It was indeed a "grievous setback" for Mackonochie[4]: it left him vulnerable to Church Association moves to secure his deprivation. The Times welcomed the triumph of law, although it doubted that the case would now be concluded with any degree of rapidity. Indeed, its overall comment was that "Ecclesiastical litigation abuses the common legal privilege of tediousness."[5]

The following month, the Church Association lawyers acting against Green renewed their application for the removal and sale of the imprisoned clergyman's assets to pay the costs of his prosecution. On 20th May 1881, the Lord Chancellor, Lord Selborne, issued a written judgement, deciding with great reluctance to allow such a sale to go ahead. He stipulated further that such sale had to take place on the premises. The E.C.U. "in order not to waste money and public time by fruitless applications to the Courts of Justice on merely technical points"[6] obtained an opinion on the matter from two distinguished non-partisan counsel. Their opinion, given on 21st May, was very much in Green's favour. He accordingly appealed to the House of Lords with continued E.C.U. support.

May saw the usual annual general meetings of societies. The Church Association, having heard a paper entitled The Spirit of Lawlessness, was moved to consider sueing the Bishop of London if he did not act against Mackonochie. The delegates seemed to think it would be a good idea to sue the Bishop of Lichfield anyhow, over the unashamed Ritualism rampant in Wolverhampton, in order to "rouse the Episcopate from their present languor and apathy"[7]. The S.S.C., at the other end of the spectrum, again discussed Disestablishment, agreeing that "it is desirable that the Bishops be no longer summoned to Parliament"[8].

At the end of the month, the Royal Commission on Ecclesiastical Courts set to work on its task of interrogating witnesses and examining written submissions from clergymen representing both parties. Tait was taking practical steps to find an answer to his own question to the Ritualists "What then do you want?" The E.C.U. annual general meeting on 22nd June gave him further food for thought. The 128 local branches of the Union were consulted and the resulting replies were summarised in six resolutions passed by the meeting: (1) that the appointment of Bishops by the Prime Minister should be discontinued in favour of an elective process of a more democratic nature; (2) the revival of diocesan synods; (3) the reform of the Convocations so as to make them more representative, especially of non-beneficed clergy; (4) the recognition by Parliament of "the rightful position of the Convocations" in the making of ecclesiastical legislation; (5) the establishment of Church Courts "for the diocese, by the authority of the diocesan synod - for the province, by the authority of the provincial synod - and as a Court of Appeal for the whole Church of England by the joint authority of the two provincial synods" and (6) an appeal to the Sovereign only in cases of "lack of justice". The Union also pledged its support for "suffering clergymen", appealing for "generous and self-denying support" financially in the struggle. As for Green, he was vindicating the rights of the Church of England

> by his refusal to recognise the authority of secular courts to suspend him from the exercise of his spiritual functions, and [..] his willingness to suffer imprisonment rather than accept decisions which contradict the plain words of the Book of Common Prayer.[9]

Finally, the delegates repudiated "any theory of the Royal Supremacy which would extend to

the Sovereign or to her courts the decision of matters affecting the Faith and worship of the Church."

Ritualist determination was reflected by Green's continued defiance. His appeal to the House of Lords on the matter of the seizure and sale of his goods in order to pay his costs was heard on 3rd and 4th August 1881 before the Lord Chancellor and two others. But it was dismissed at the conclusion of the argument for Green and without the need for speeches from Counsel on the other side. The same day his household goods were accordingly sold by auction, an occasion for wealthy supporters of the E.C.U. to demonstrate their solidarity with Green by buying back his goods for him - by now there was an impressive array of supporters in high places, so that among the contributors were the Archbishop of Dublin, the Primus of the Scotch Episcopalians, the Bishops of Salisbury, Lichfield and Ely, and even the former Dean of Arches, Sir Robert Phillimore.[10]

There was a further aspect of the House of Lords' dismissal of Green's appeal, as Roberts noted:

> The failure of this application finally exhausted all the available legal means for obtaining Mr Green's release.[11]

The ecclesiastical events of the next year were to be largely occupied with this apparently insoluble problem.

On the day following the sale of Green's goods, however, Thomas Pelham Dale, now Rector of Sausthorpe and generally assumed to be no longer subject to any legal action, was notified that the Church Association were taking steps to recover the proportion of his costs which he had failed to pay. On 5th August, an application was made to Penzance to declare Dale in contempt because of this: Dale was again liable to imprisonment should application be made for a *significavit*. Like Purchas, he claimed that he had no possessions, all that was left being "the property of his late mother, left to trustees for the benefit of his wife"[12]. Unsurprisingly, this contention was disputed and, on 18th of the same month application was

made to and granted by the Lord Chancellor for the issue of another sequestration against Dale to enforce the payment. Negotiations ensued, and a compromise satisfactory to the Church Association and somewhat humiliating to Dale was eventually settled upon. It was not until 29th November 1881 that the second sequestration was withdrawn and Dale's case brought to a final conclusion. He was allowed to live out his last years in tranquil obscurity, dying on 19th April 1892, a beneficed clergyman of the Church of England.[13] Of the four clergymen imprisoned during this period, he was perhaps the saddest character, often indecisive and thus inconsistent. Older than Tooth, Enraght and Green, his temperament was not that of a fighter.

But Dale had had his moments of fame, and now the spotlight was on Green. Immediately after the sale of his goods, and the exhaustion of legal means to get him out of Lancaster Gaol[14], Lord Beauchamp introduced a Bill into the House of Lords to secure his release. The Ecclesiastical Courts Regulation Bill provided for the automatic release of anyone committed to gaol for contempt of an ecclesiastical court. But it was clear that whilst it would have an effect on any similar cases which might occur in the future, it was in practice "little more than a Bill for the release of Mr GREEN from prison."[15] In this, it was analagous to a case which occurred in 1840, when a Mr Thorogood refused to pay his Church rates because of conscientious scruples, was accordingly sent to gaol and remained there for eighteen months until an Act was passed which allowed the release of contumacious prisoners with the consent of the other parties to the suit. Beauchamp was in effect seeking to remove the consent clause, since the Church Association remained obdurate.

Beauchamp's Bill was read a second time on 9th August. Tait was concerned that the Bill would not prevent Green and others like him from being sent to prison again if similar offences were committed in future. As the Times put it,

> He will be released from prison, and he will be free to obey the law. Unfortunately he will also be free to disobey it.

This was rather an insoluble problem, and Tait supported the Bill, as did Selborne. But the

Times suggested that the problem of reoffenders rendered the measure as it stood pointless. Whilst it was admitted that many people would be glad to see Green released from his inappropriate punishment of disproportionate duration, and the entire current state of ecclesiastical jurisdiction was criticised in harsh terms, it pointed out "two considerations which make the other way". Green was not in prison for Ritual offences *per se*, but for persistant disobedience to the authority of a court - a continuing offence which required a continuing punishment - and it was up to Green to obtain his own release by submitting.

The Times article suggested two possible alterations to Beauchamp's Bill: "such an amendment of the law, or a fresh declaration of it, as will sanction the practices for which he has been condemned," or else "an effective penalty for disobedience". The former was clearly unworkable, but the latter could be addressed during the the Committee stage of the Bill. On 12th August, the Lord Chancellor introduced the notion of the offender's deprivation of his benefice at the end of six months, thus ending the imprisonment. The Bill then offered a more summary means of securing the deprivation of a contumacious clerk and as Fong remarks, actually rendered the P.W.R. Act "more threatening"[16]. At this stage, it was also renamed the Discharge of Contumacious Prisoners Bill.

This first attempt to get Green out of prison was not destined for success, however: without official support from the government (it occasioned considerable opposition from the Low Church party, and distrust from lawyers and High Churchmen), it foundered through lack of time and interest on the part of the Members of Parliament.

Whilst it was becoming apparent that this measure would fail, the E.C.U. was collecting signatures for a petition on the subject of Green's imprisonment. This was addressed to the Queen and stated:

> That your Petitioners are informed that your Majesty's most gracious pardon is the only means by which Mr Green can be released. Your Petitioners, therefore, humbly pray your Majesty to be pleased to exert your Royal clemency in his behalf.[17]

The precise number of signatures is unknown, but the overall effect was most impressive. Tait

and Gladstone also received their fair share of petitions and memorials on the subject. Although such tokens of public opinion could always be matched by similar documents on the opposing side, these cannot but have concentrated the minds of those supposedly in charge of the situation. A suggestion that Green be released on medical grounds was discovered to be unworkable, since the imprisoned clergyman, showered as Marsh puts it with edible tokens of High Church esteem[18], was perfectly healthy.

A letter by Archbishop Thompson of York prompted the Times to review Green's imprisonment in mid-September[19]. After attacking Green and his fellow Ritualists for the perceived contradiction between their high view of episcopal polity and their practical refusal to cooperate with their Bishops "upon any reasonable or even possible terms", it dismissed the failed Bill proposed by Lord Beauchamp. Under that, had it been successful, the possibility of repeated imprisonments would have meant that:

> Mr GREEN and his imitators would have travelled from prison to parish and from parish to prison indefinitely.

It was still clear that a legislative solution needed to be sought. The failed Bill, as amended by Selborne to provide for forfeiture of the offending clergyman's benefice, was more useful, but it was doubtful whether it would be better to have:

> A Bill going still further and either providing a much shorter limit of imprisonment or doing away with imprisonment at all for contempt of court in such matters.

The problem needed urgently to be addressed:

> There are plenty of persons, besides Mr GREEN himself, who call this conduct martyrdom for the sake of conscience.

Such an attitude was shared by Knox-Little, now a Canon of Worcester Cathedral. As well as visiting Green in gaol - as had many other sympathisers - he spoke publicly on his behalf. "It was an Ultramontane or Roman principle to obey a man's bishop merely on his *ipse dixit*"[20] and Green was simply refusing to recognise his Bishop when he was acting as a "flunky of the Public Worship Regulation Act". Knox-Little also brought party politics into his understanding of the situation:

> The Act was a specimen of Tory tyranny and nothing else, and no man who was a Liberal, as he was, or a Churchman would have anything to do with it.

This is illustrative of the weakening of the traditional link between High Church and Tory views, so prominent during the Oxford Revival, as Ritualism came to the fore. Clergymen such as Mackonochie and Stanton had long since abandoned Tory attitudes, and the attitudes of Gladstone and Disraeli could not but incline High Churchmen towards the former. Machin explores this trend and Bentley highlights Ritualist involvement in protests against Conservative support of the Turks in 1876 - indeed Bishop Magee observed at the time that Liddon's clerical declaration against this policy "really means the ritualistic declaration of war with Dizzy to revenge the P.W.R."[21]

At the same time, early October 1881, the Church Congress was meeting at Newcastle: much time was devoted to concerns other than Green's imprisonment or Ritualism - the increasing secularism of society, symbolised by Charles Bradlaugh, the atheist, was a major concern. Nevertheless, on 5th October the Congress debated the limits of toleration in Ritual matters and the next day it dealt with the structure of ecclesiastical courts (reflecting the continued deliberations of the Royal Commission on the subject). The first debate, under the supervision of Dean Lake of Durham, preserved a "temperate tone" throughout, although the desire to avoid unpleasantness prevented the participants from really tackling the issues involved, but it was clear that all except the extremists appeared to desire toleration of some kind. The Times commented that:

> Wholly outside the ranks of Ritualists and Anti-Ritualists, of Church Unions and Church Associations, are still happily to be found the great majority of peaceful and law-loving Churchmen, who are not very much disturbed by a vestment more or less, or by the varying fashions of ceremonial.[22]

The implication was that vestments and other adjuncts of Ritualist practice need not imply anything doctrinal, that Ritualism was a matter of fashion rather than objective truth. This would become truer later, when Ritualism was no longer kept fit and lean by persecution from without.

The debate on ecclesiastical courts was less conciliatory, Fremantle, later Dean of Ripon and bugbear of Father Ignatius of Llanthony[23], called for summary deprivation for contumacious clerks, and Knox-Little used the rhetoric of the Reformation to defend Ritualism by attacking episcopal attempts to dominate Ritual practice. The future Lord Halifax was more practical, suggesting that Bishops should judge Ritual cases with the assistance of a council of clergymen, though this was attacked as simply a move to render the administration of the ecclesiastical law less possible than it already was. The great majority sympathised more with the Ritualists than with their opponents: there was "furious applause awarded to all and any schemes for enabling Ritualists to defy Church discipline".[24]

The Church Congress still expected further legislation to be necessary in the short term to secure Green's release, but within a week of its end, there arose the prospect of a different means whereby to secure this objective. On 13th October, the Manchester Diocesan Conference met and Bishop Fraser announced that, Green having agreed to recognise his duty of canonical obedience to his Bishop, he had made application to Gladstone for his release. Fraser hoped that this would lead to Green's almost immediate release, and this optimism was reflected by the Times, when it commented on this development a couple of days later[25]:

> Mr GLADSTONE will do all he can for him and what Mr GLADSTONE undertakes in this matter we have every confidence he will carry through.

Indeed, the entire tone suggested that Green's release was a foregone conclusion. But the very reason Bishop Fraser's initiative came to naught was discussed at great length: Green

> is careful, even so, to explain that his position is unchanged, and that he has never repudiated the obligation which he has been induced by his BISHOP to acknowledge in express terms.

Or, more explicitly still,

> Mr GREEN [...] must be understood as professing himself willing to yield obedience to BISHOP FRASER on condition that BISHOP FRASER omits all further mention of LORD PENZANCE and the Public Worship Regulation Act.

As a submission it was worthless and the Lord Chancellor on these grounds refused to allow

the initiative to come to fruition.

A month and a half had passed while Fraser was trying to secure Green's release, and now Sir Perceval Heywood, the patron of Green's living, called for urgent action to secure the release of his "devoted parish priest". Public opinion increasingly opposed his continued incarceration, and Heywood advocated the press as "the most powerful engine [...] for obtaining the release". He himself was not above an appeal to public sentiments - Green had been in prison for nine months and it was now early December:

> Christmas, too, is near at hand - a time of peace and goodwill; it will shock and grieve the feelings of very many if Mr Green be allowed to linger on in prison and his wife and young children be left homeless and without protection.

The government and the episcopate were at a loss as to what ploy to try next and Green indeed remained in prison over Christmas. Matters were not helped by the fact that there were no other Ritualist prosecutions in the public eye at this time; the Prestbury case, it is true, saw some development in December 1881, with the argument for the rule *nisi* being heard before Mr Justice Chitty on 6th and 15th of the month[26], but the continuance of the hearing was postponed to March 20th and the case was hardly exciting enough to interfere with public preoccupation with Green's long-drawn-out martyrdom.

Petitions for Green's release continued to flood in. The New Year, 1882, saw the Home Secretary replying to one from the Fellows of New College, Oxford. It was urged that a Royal Pardon would put an end to the situation, but the minister replied:

> that the powers of the Crown to discharge persons from custody would not be rightly, or even constitutionally, exercised in the case of a person imprisoned for contempt of court committed by persistant disobedience to the lawful commands of a competent tribunal.[27]

Legally he was right, of course, but increasingly such a rigid attitude appeared unwise. A few days later, the Times published a letter expressing "warm sympathy" and support for Green from as far away as the All Saints' Church Union in Melbourne, Australia.[28]

Tait viewed the situation with rather more urgency than the Home Secretary. He had already

failed to persuade the leaders of the Church Association to make application for Green's release (as they could under the Thorogood Act of 1840). Now he tried, through his secretary Randall Davidson (himself a future Archbishop of Canterbury), to reason with Green. He had foreborne so far as Miles Platting was in the Province of York. Davidson, on 11th January, 1882, asked Green to explain:

> What is the existing Ecclesiastical Authority which, if released from prison, you would feel yourself able conscientiously to obey, - not, certainly, as regards your private interpretation of the Rubrics, for that must be a matter of conscience, - but as regards the action you would think it right to take in matters of ritual.[29]

Davidson's mention of "existing" authority was not calculated to please Green, since he considered the "existing" situation unsatisfactory in the extreme. He replied the next day that he was willing to obey any and every "duly constituted authority, whether ecclesiastical or civil, acting within its own jurisdiction", adding by way of explaining his position:

> (1) It is demoralising, degrading, and incompatible with the very existence of a Church that any three persons who ignore all their own religious responsibilities should dictate to God's faithful people in matters as to which they have no concern whatever.
> (2) That it is absolutely impossible for an assembly like the House of Commons, upon which the supreme power has now devolved, and which is officially ignorant of the very existence of its God and Saviour Jesus Christ, to be in *any sense whatever* a source of ecclesiastical jurisdiction.[30]

Tait had been unwise to leave the correspondence in Davidson's hands, since he was unable to understand Green's mentality and lacked any sympathy for the Ritualist cause. The Chaplain's next letter was scarcely more successful: for Green, the ecclesiastical establishment seemed to be asking him if there was any way in which he could go against what he believed the Prayer Book to stipulate. If he had known of any such way of escape, he would not have been in prison for ten months: to submit under protest was not an acceptable solution for him.

> To submit to loss of life, goods, liberty, etc., under protest is plain enough; but to *do wrong one's self* under protest is another matter altogether.
> How sad to think of the thousands of lives wasted on account of a grain of incense as in the early persecutions, for a mere shibboleth, as in those of a later age, when such a simple means of escape was ready at hand.[31]

Throughout the correspondence, Green had the advantage over Davidson. He wrote imaginatively and with feeling, whilst Davidson was humourless (he did not even use the story

of Naaman to counter Green's arguments![32]) and pedantic. All that this exchange achieved was to make Tait realise how intractible the situation was: Green would not agree even to seem to submit to Penzance's authority.

In February 1882, Mackonochie's case was again in the public eye and taking some of the attention away from Green's prolonged imprisonment. On 3rd February, an appeal on behalf of the Church Association was made to the Judicial Committee of the Privy Council in an attempt to overturn Penzance's refusal (in June 1880) to deprive Mackonochie on the ground that he had already suspended him for three years and it was up to the promoters of the suit to seek the enforcement of that sentence. The appeal was heard before a panel which included the Lord President, the Lord Chancellor, the Archbishop of York and, as assessors, the Bishops of Durham, Winchester and Lichfield.[33]

This development was only made possible by Martin's reluctance to move for his imprisonment, the usual punishment for contempt of a sentence of suspension. Penzance had held that to abandon the existing suit for a fresh one would be wounding to the dignity of his court, and this position had some logical justification. Nevertheless, the appeal was intended to overcome the problem that, under the present conditions, Mackonochie would either be allowed to get away with his flouting of the law, or else be imprisoned. The Times called this a "lame and sorry issue" for the case[34], and rejoiced that:

> The sentence of the Court below will be reversed, and there is a prospect that if Mr MACKONOCHIE perseveres in his contumacy he will suffer a sentence of deprivation, which will appear to most persons a more suitable remedy than a writ *de contumace capiendo*.[35]

And, further:

> The latest development of the case stands out of a mass of futile and inconclusive proceedings as reasonable and promising to be effectual.

As yet, the Judicial Committee's reasoning was unknown, and this was more based on practical politics than on legal logic. The reasons, when published, had an air of special pleading to them:

> Their Lordships do not find that any obligation is cast by law upon the promoter of a suit in an Ecclesiastical Court to take proceedings for the imprisonment of a party guilty of contempt,[36]

and just as in the case of a different person bringing a suit against a clergyman already under sentence for an older suit, there was no reason why Martin should make fresh use of the "remedies given by the Church Discipline Act". Nevertheless, Mackonochie was now vulnerable to deprivation by Penzance, to whom the case was now remitted for appropriate canonical punishment.

Meanwhile, Convocation met on S.Valentine's Day and the Green case was given more than its fair share of discussion. Particularly notable was a petition by the E.C.U. presented by Bishop Wordsworth of Lincoln. This called for the House of Bishops to take "immediate steps" to procure Green's unconditional release

> and so put an end to a scandal which, in addition to the injustice inflicted on Mr Green, seriously endangers the existing relations of Church and State.

The petitioners could not resist something in the nature of "I told you so", representing

> That experience has justified the representations made by your Petitioners to your Right Reverend House, at the time of the passing of the Public Worship Regulation Act, as to the evils it was calculated to inflict upon the Church, and your Petitioners therefore humbly pray your Right Reverend House to consider what steps can be taken to obviate the mischievous effect of that Act, the passing of which has given so great an impetus to the unhappy prosecutions which at present vex and harass the Church.[37]

Even with such a stinging rebuke echoing in their ears, the Bishops were unable to offer any real solution, and Green's imprisonment approached its first anniversary.

On 13th March, 1882 the Church of England Working Men's Society invited clerical sympathisers to make the following Sunday (19th March, the actual anniversary) a day of special observance and prayer for Green. Twenty London Churches and 142 outside the capital had pledged their support in advance[38]. Pusey threw his weight behind the scheme, in a letter to Charles Wood of the E.C.U. dated 8th March: he hoped that the Church Association had over-reached itself.

> The exterminating party have, I trust, now run too wild a race. Three priests whom it imprisoned were delivered. The fourth, whom we cannot extricate from its fangs, will, I hope, preach to the hearts of the English the tolerance which the intolerant will not exercise towards him.[39]

Come the actual day, the day of prayer was observed in a great number of Churches ("it is said considerably over 1,000"[40]); Mass was sung for his intentions at S.Alban's, Holborn; S.John the Divine, Kennington; S.Peter's, London Docks; S.Mary Magdalene's, Munster Square; and All Hallows, Southwark. In case prayer was not enough, the offertory collections of many of these Churches were given to the imprisoned clergyman for the support of his wife and children. The form of prayer put out by the C.E.W.M.S. included petitions for the persecutors:

> Have mercy upon all those that withstand Thy truth or seek to rob Thy worship of its beauty; take from them all ignorance, hardness of heart and contempt of Thy Word.

The Times pointed out the appropriateness of these observances:

> In some thousand or so Churches [...] prayers were offered up yesterday for Mr GREEN's release, and the Holy Communion was celebrated in just the way in which Mr GREEN has been punished for celebrating it.[41]

It was however urged that the very action of the Church Association in bringing about Green's imprisonment had provoked such an outburst of illegal ceremonial - an outburst which the Association was powerless to suppress. Green might be in prison for his illegalities, but

> his aiders and abettors are at large. They swarm on all sides and attract multitudes to their performances. Nothing has been done, even locally, to put them down.

Besides, Ritualists were being hypocritical in making such a demonstration on behalf of Green's release. Green himself was the only person who could secure his release either by submitting or resigning his benefice, and it was in the Ritualist interest that Green should stay in gaol as long as possible - those praying for his release were fully aware of this and were in practice doing everything they could to thwart the success of the prayers they were offering so publicly.

On 20th and 21st March, the arguments in the Prestbury case appeal (postponed from the

previous December) were concluded and the judgement reserved for the time being.[42] Green, rather than Baghot de la Bere, remained the centre of attention. The Times Good Friday leader on the state of the Established Church[43] concentrated on the Green case: it saw or claimed to see a "gradual abatement of the passionate virulence which inflames Churchmen against one another" since the previous Easter, but depicted the deadlock as indicative of a "prevailing lethargy" in the Church. The two rival factions had fought themselves into an impossible corner, and their concerns were irrelevant to the majority of English Churchmen:

> Neither Ritualism nor its enemies have shown any ability to draw together a congregation of other than sightseers.

At the Easter Vestry meeting at Enraght's Church in Bordesley Green, there was an impressive show of support for the still-threatened incumbent. A motion was unanimously passed by the parishioners on 10th April not only repudiating all connection with the prosecutors but also expressing

> Our determination to use all legitimate means to prevent the eviction of our Vicar; and we appeal to the proper authorities, ecclesiastical and civil, to attend to this our Resolution in Vestry, and to disallow further action in this matter against the Vicar.[44]

Subsequently, Enraght's appeal to the House of Lords from the judgement of the Court of Appeal was heard on 27th and 28th April. The aim was to prevent the Church Association from having Enraght again committed to prison. Judgement was reserved to the end of the following month.

Over the past couple of months several attempts to secure Green's release had been tried unsuccessfully. A Contumacious Clerks Bill was introduced into the Commons by Morgan Lloyd, at the instance of the Church Association. This aimed at strengthening of the 1874 Act:

> It provided that a clerk already suspended *ab officio et beneficio*, or pronounced contumacious in resisting suspension or inhibition, might be deprived at once, or at the expiration of three calendar months; limited imprisonment for Contempt of Court to six months, but left the liberated prisoner still liable for costs incurred, and to deprivation; cancelled the Bishop's veto; and made any "deposed" clerk incapable of holding preferment for four years after deprivation.[45]

As such, it tried to introduce further persecution for Ritualists under the pretext of obtaining Green's release. Official opposition prevented it getting beyond the first stages. Equally unsuccessful was a similar measure introduced by a Conservative, Byron Reed and entitled the Public Worship Regulation Act (1874) Amendment Bill. This would have made the Episcopal veto reliant on a poll of ratepayers (of any or no denomination) in the parish in question.

Such wildcat measures confirmed Tait's resolve to tackle the situation, as did the continued pressure from the government (Selborne in particular); on 9th May 1882 he was able to announce to Convocation that the House of Bishops had agreed to propose another Bill to effect Green's release. Tait spoke of his "pain at the continued imprisonment" and had harsh words for the policy of the Church Association as being "in excess of the requirements of the case". The new proposal was the work of Archbishop Thompson of York and was in the form of a Bill for extending the operations of the Act 3rd and 4th Victoria, cap.93. This was the Act passed to release Mr Thorogood in 1840 and the proposition was to allow the Archbishop of the Province a similar power to that possessed by the complainants under the 1840 Act - that he could petition for the release of any person committed to gaol for contempt of an ecclesiastical court.[46] Since the Royal Commission on Ecclesiastical Courts was still in progress, the effects of the Bill were to be limited to three years, on the understanding that a long-term solution would have been agreed upon by then. Both Convocations supported the measure with near unanimity (in the Lower House of the Canterbury Convocation, the resolution of support was carried by 70 votes to 3)[47] and Selborne approved too. So, wasting no time, Tait introduced the Bill into the House of Lords the same day. It was read a second time on 16th May and there was every expectation that it would soon become law and Green would be free.

The S.S.C. supported the new Bill and lauded Green's "abiding patience under the unjust continuance of a most unjust imprisonment".[48] The fact that at the same time the

government was busy arranging the release, without guarantees, of the Irish terrorist "Suspects" emphasized the unfair treatment of Green. The Times opposed the measure, inasmuch as it encouraged persistance in law-breaking. It also suggested that Green's release would soon be brought about naturally, since on 27th June, it would be three years since the issuing of the original monition against the clergyman and his benefice would then legally be declared vacant. This assumption was contentious, since it appeared that Green's release would still not automatically follow, unless he first pledged obedience to Penzance. This was pointed out by John Gellibrand Hubbard, patron and founder of S.Alban's, Holborn.[49] He also quoted the recent admission by Archbishop Thompson that Penzance "had never completed his qualifications" as Dean of Arches - surely such a statement indicated not simply that Green should be released now having been duly punished, but that he had been right all along in refusing to recognise the judge?

The Lords read the Archbishop's Bill for a third time on 6th June 1882 and passed it without much incident; it now remained for the Commons to deal with it. This would not be possible for some time, owing to pressure of business. Meanwhile, the E.C.U. renewed its encouragement for any move which would result in Green's freedom, adding the unwelcome rider that:

> This Union, while it is grateful for any effort to obtain the release of the Rev. S.F.Green with out sacrifice of principle on his part, feels that nothing can really restore peace to the Church as long as the Public Worship Regulation Act, and other Acts involving the intervention of the Privy Council in Spiritual matters, remains unrepealed.[50]

In spite of the softening of the approach of the Establishment towards Green, there was no relenting among the Ritualists on points of principle.

On 22nd May, the House of Lords dismissed Enraght's appeal with costs. He was now legally liable to be put back in prison, should his complainants apply in due form, although given the current difficulties surrounding Green, this seemed unlikely in the extreme. The Times welcomed Enraght's defeat, as an affirmation of Penzance's jurisdiction, but deprecated the state of ecclesiastical law in what was becoming a familiar fashion.

> Nothing is concluded, nothing seems gained by these interminable appeals on the part of recalcitrant clergymen to tribunals the jurisdiction of which they deny, and in which sit judges who profess to know little of, if not despise, the branch of law which they are called upon to administer.[51]

A further appeal relating to Enraght's case (from Penzance's refusal to substitute the current Churchwardens for the original promoter of the prosecution) was heard by the Judicial Committee of the Privy Council shortly afterwards and judgement, given on 4th July, proved similarly disappointing for Ritualists. It was difficult to see any further possible moves for Enraght - he still had possession of his parish church and could only await whatever further consequences of his contumacy might transpire.

The Vicar of Prestbury, John Baghot de la Bere, was also exhausting his possibilities of further action. On 13th July, Mr Justice Chitty refused to make absolute the rule *nisi* against Penzance. This rule had first been granted over a year previously (14th January 1881) and hinged on Baghot de la Bere's contention that Penzance had exceeded his jurisdiction by sitting to hear the case in Committee Room E of the House of Lords:

> This was asserted to be part of a peculiar of the Dean and Chapter of Westminster, and therefore outside episcopal limits, and also part of a Royal Palace, and therefore exempt from the jurisdiction of the ecclesiastical Courts.[52]

This was rejected, since the Act 6&7 William IV.c.67 had declared that all peculiars were subject to ordinary episcopal authority, notwithstanding statutes and grants to the contrary[53], equally any royal exemption from Penzance's jurisdiction was nullified by his having sat with the permission of the Lord Great Chamberlain and, by extention, royal approval. If the noble judge had omitted to obtain such permission but had gained entry to the Palace by stealth in order to sit in judgement on the case, the matter might have been different. It was immediately obvious that de la Bere would submit an appeal - as it turned out, to the Appeal Court though it could just as well have been made to the Judicial Committee against Penzance's judgement which Chitty had upheld.

The Times treated the entire matter with weary contempt, contrasting Ritualists unfavourably with the Oxford Movement:

> The authors of the so-called Oxford Movement were contending for something real. For dresses and ornaments and such like matters they did not much care.[54]

Obviously, the contention was true inasmuch as the Oxford Movement contented itself with doctrine, but one of the root causes of the opposition encountered by advanced Ritualists was the tangible, "real" nature of the changes they were introducing. Curious also was the retrospective concession of respectability to the Romanisers of Oxford forty years before: yet it was claimed that "vast indeed" was

> The distance from "The Christian Year" and the literature, mystical, refined, learned, which the Tractarian movement originated, to the barren controversies about the limits of the Dean of Arches' jurisdiction, or the use of vestments[55]

The passage of time and the development of the Catholic party in the Church of England had healed some of the bitterness surrounding Newman, Froude and company, but only by portraying them in an inoffensive, sanitized version, somewhat removed from the truth.

The current mess of appeals and technicalities, the same commentators could only foresee stretching out unresolved and unresolvable. The only natural end for Baghot de la Bere's case, the Times suggested, was that provided by the common end of humanity:

> Lord PENZANCE is mortal; so is Mr COMBE; so, we presume, is Mr DE LA BERE himself. The Church of which Mr DE LA BERE is a minister [...] is itself a threatened institution.

Such strong words drew a response from de la Bere[56]; he would not relent until the question of Penzance's jurisdiction had been put to rights. He accused his persecutors of a less than disinterested motivation:

> I believe that their object is far less to suppress my ritual than to suppress myself.

The two sides hardly spoke the same language.

The Bill to secure Green's release came before the Commons on 16th August[57]. The third anniversary of his original monition had passed without any declaration by his bishop that his benefice was vacant or any request from the prosecutors for his release. The opponents of the Bill were no longer able to claim that Green would be released automatically in due time.

The choice of John G. Talbot to move for the Bill's second reading in the Commons was unfortunate - he extravagantly overstated the matter, comparing Green to the early Christian martyrs and thus implying the conclusion which the Archbishops wished to avoid - that the Bill was somehow in favour of Green and the Ritualists rather than simply a way of ridding the country of an unnecessary and burdensome nuisance. James, the Attorney General attacked the Bill as Talbot portrayed it: as well as claiming that the Bill "violated all sound legal principles", he adapted the contention that Green would be released automatically, by switching the relevant date from the third anniversary of the monition of which Green stood in contempt, to the third anniversary of the suspension pronounced on him. That anniversary fell on the very day that James was speaking. James' speech, and another by Magniac (who pointed out that Green's liberty of conscience constituted an arbitrary infringement of the liberty of conscience which ought to be enjoyed by his parishioners) took up enough time and were of little enough interest to the House that it was "counted out" - less than 40 MPs were present. The House accordingly had to rise, and the Archbishop's Bill was lost. Given the pressure of other business, including debates on Egypt, the Irish Question and procedural matters, which claimed the attention of the House, it was perhaps more remarkable that time was found for the Bill at all.

Thompson's Bill having failed, the other Archbishop immediately wrote to Gladstone quoting the Attorney General's opinion that Green should be automatically released on the voidance of his benefice. Could not Gladstone now simply order Green's release on the grounds that he was no longer Vicar of Miles Platting and thus was in no position to continue his contempt? The Archbishop, already suffering a severe physical decline, which was to lead to his death, was clutching at straws: Gladstone's reply cannot have come as a surprise to him.

Marsh explains that:

> Technically Green was in jail not because he had conducted worship illegally, but because he showed contempt of court in ignoring Penzance's orders. In strict law Green might not be entitled to his freedom until he purged himself of this contempt by indicating willingness to submit to the court. There was also much doubt as to whether he would respect deprivation of his benefice any more than his previous suspension.[58]

The intractability of the case (and of Mackonochie's continuing harassment - application for his deprivation was made to Penzance on 26th August but deferred owing to the appeal in the Prestbury case) cannot have helped the ailing Tait's state of mind.

Tait's approach to Gladstone was in private. In public, debate about and lobbying on behalf of the imprisoned clergyman intensified. The Times printed a letter from Pusey, himself seriously ill, quoting on Green's behalf an eye-witness account of the conditions in Lancaster Gaol in order to "open the eyes of some who would not jest at suffering":

> Mr Green was once a fine-looking man; he is not so now; he looks wasted and gaunt, although his face is good. The room in which he is locked up looked to me like a very large dungeon, with a huge fire. He must be uncommonly strong to have stood the trial so well; if he had been delicate, he must have died. He talked pleasantly: not a word of self. He must be a very good man; certainly he is a brave one.[59]

Pusey might have been better advised to dwell on his own illness and represent his letter as a death-bed plea: his letter provoked a response from "a Vicar General" (in fact the Low Churchman Edmund Beckett). He waxed lyrical on the harshness of Green's conditions, asking whether the facts which Pusey related were

> intended to suggest the (first part of the) fate of Shadrach, Meshach, and Abednego, or is our martyr being roasted more slowly than Sir John Cobham was? As the Dungeon is so very large, one hopes he can choose his distance from the fire. [...] It would be rather a serious revolution if anybody could repeal an Act of Parliament [...] by persisting in sitting before the fire in a very large room, with good fare, until Parliament consented to repeal it.[60]

To such sarcasm Pusey had no reply. Two patrons of Ritualist parishes took up Green's cause next: Green's own patron Sir Percival Heywood pointed out rather ineffectively that it was the Church Association's fault that Green remained in gaol and that it was not the modern way of doing things to punish men for their beliefs. More to the point was the contribution of John Hubbard, founder of Mackonochie's church, who criticised the part played by the government in the failure of Thompson's Bill. Gladstone had encouraged the production of such a Bill and had then let it founder through lack of concerted support, whilst distracted by other issues. Hubbard was able to mount an effective response to the jibes of the "Vicar General". Beckett, he said, stood for Erastianism pure and simple:

> Erastianism would ridicule Shadrach, Meshach and Abed-nego for refusing to worship

> the golden image which Nebuchadnezzar had set up; [...] it would have approved the tortures inflicted on the early Christians who, rather than deny their Saviour at the bidding of the civil power, welcomed excruciating deaths.[61]

Beckett responded by stating that Green was not in prison for his Ritualism, but for his disobedience. He might not have gone to prison had he not been a Ritualist, but the same could be said of his being a clergyman and he was certainly not in gaol for *that*. He was unaffected by being called an Erastian, retreating behind appeals to the Act of Uniformity.[62] The two sides were clearly speaking in different terms and such correspondences were only likely to encourage readers' preconceived opinions on the matter without hastening Green's release.

The pro-Green lobby concentrated increasingly on the plea that his benefice having become void under the terms of the Act (an Act which most of them did not of course recognise) Green ought now to be released simply by authority of the government. Such was the contention of many who occupied the middle ground in the Ritualist controversy too: nothing was being achieved by continuing Green's comfortable martyrdom and legally he could now be released. On 8th September, the Carlisle Diocesan Conference presented a petition to the Home Secretary calling for such action. Green's continued imprisonment was "contrary to all principles of justice" and the question now should be whether there was any reason why Green should *not* be set at liberty.[63]

The S.S.C. Synod on 14th September, was more concerned with the point of principle involved. If Green was released from prison where he had been suffering for his refusal to recognise Lord Penzance's rights, it would be because he was considered no longer to be a beneficed clergyman of the Church of England. The Canon Law Committee presented a report on the Probable Effects of Uncanonical Deprivation[64] and this was adopted by the Synod as a whole and shortly afterwards printed[65]. The point was that Green's deprivation was uncanonical:

> Any deprivation pronounced under the provisions either of the Church Discipline Act or of the Public Worship Regulation Act, is the action of the Civil and not of the Ecclesiastical, authority, and is consequently , canonically speaking, absolutely null

> and void. It is so, whether the Bishop of the Diocese lends his sanction or not to the proceeding; because the Bishop can only act according to the Canons.[66]

Hence, if Green was released the Bishop would treat the benefice as if it was vacant, whilst to Ritualists Green was still the incumbent. How was Green to act on his release? Given the events of the Hatcham case, where Tooth realised that his position was impossible and resigned, the report was rather a theoretical exercise. But the report recognised that the resignation of a clergyman in Green's situation was a valid option - after all, resigning from a benefice of which one is no longer incumbent in civil law constituted a protest against that law in itself - and the compilers of the report were anxious to emphasize that the alternative to resignation was to continue an active ministry in opposition to any clergyman intruded into the living by the Bishop. "An attitude of passive resistance cannot be canonically justified."[67] Nevertheless, it read as if open and active resistance was the preferable option. If a new Vicar was appointed, this would involve the Bishop, the patron of the living, the clergyman in question and all who received his ministrations in the sin of schism.

> The Canonical Parochus can alone minister to the faithful of the Parish. They must receive the Sacrament at his hands and his alone.[68]

So the S.S.C. suggested that the uncanonically deprived clergyman (throughout, Green's name remains unwritten - they were talking of *any* clergyman in such a position) should secure a fit place in the Parish for the celebration of Mass and ask the Bishop to license it. When the Bishop refused, as he certainly would, "then a case of *summa necessitas* will undoubtedly have arisen" and the clergyman could go ahead with his ministrations in this oratory. There were parallels with the condition of Catholic clergy during the Arian ascendancy in the early Church. But nineteenth-century England presented certain additional problems, rendering the recommendations slightly ridiculous:

> Should the Parochus solemnize Matrimony? If he did so, the marriage would be valid ecclesiastically, but it certainly would be civilly invalid, not being solemnised in a Church. Hence, he should not solemnize marriage. But he must warn the faithful against being married by the intruder.[69]

An alternative would be an ecclesiastical ceremony in the temporary oratory following a civil ceremony before a Registrar. The Society was so concerned with such *minutiae* that it failed

to consider that it was asking Green in practical terms to initiate a schism in the Church of England: in the Ritualists' eyes, the Bishops might be the schismatics, but in that case, the "true" Church of England would be a miniscule body of refugees from the schismatic body - redolent of the statement in 1066 and All That about the Pope and all his followers seceding from the Church of England in the reign of King Henry VIII.

Green, however was not a member of the S.S.C. and it seemed that the way forward was indeed for his release to be brought about by the automatic voidance of his benefice. Pusey's death on 16th September stifled debate, but a few days later, Richard Christie, the Chancellor of Manchester Diocese was defending his Bishop's failure to give notice that the benefice had become vacant.[70] The Bishop, Christie urged, needed first to receive official notification from the Provincial Court of York "that the events referred to in the 13th section of the Act have in fact happened, and that the benefice has, in fact, become void" - he could not just act "upon mere rumour". The promoters of the prosecution needed to apply to the Provincial Court in due form, before the Bishop could treat the benefice as vacant and Green could be released. After all, it was only in this way that the doubts about exactly when the voidance occurred could be settled:

> The paragraphs and letters which have appeared in the papers from (as it would seem) the sympathizers of the promoters have fixed the date as the 27th of June 1882 - i.e. three years from the date of the monition; the Lord Chancellor, in the House of Lords, stated it as the 9th of August (three years from the date of the inhibition); and a correspondent of the *Spectator* of last Saturday, writing from Lincoln's Inn, suggests that the voidance will not take place until an order is made by the Court declaring the benefice vacant.

Whilst Christie was right to demonstrate this latest minefield produced by the Act of 1874, the Times pointed out[71] that the Bishop had provided for services at Miles Platting, implying that he thought the inhibition valid and that, as for the continued contempt, he had "palpable evidence of fact" in the shape of Green's absence from the benfice. Surely, Green's deprivation was something which happened automatically and he should be released. But as it was, it seemed that even if it could somehow be established that the benefice had become vacant, Green's release did not necessarily follow. The Times did not mince its words:

> Common sense and ecclesiastical law have long since parted company, and we trust

> Mr CHRISTIE will forgive us for saying that his argument does not encourage the hope that they are likely soon to renew their acquaintance. For Mr GREEN himself our feeling can be nothing but one of profound commiseration; it is bad enough to be a prisoner for mere conscience' sake [...] But his very martyrdom is surely rendered ridiculous by the refusal of the BISHOP and his Chancellor to take official cognizance of facts with which all England has rung from the first.

Christie in response corrected the factual inaccuracy that the Bishop had been acting on the inhibition by providing services at Miles Platting (in fact he had simply allowed Green's curate, Harry Cowgill, to continue to take services) and pointing out that the Bishop's notification to the patron that the benefice was vacant "cannot have the smallest effect on the imprisonment or liberation of Mr Green" since it was a recognition of a fact, rather than the fact itself.[72]

But Christie was not to have things his own way: the following day a letter appeared from TEMPLAR suggesting that he should reconsider his opinion. Christie characterised TEMPLAR as "one, who is clearly no stranger to the proceedings and whose disguise it is not difficult to penetrate". This constituted an attempt by Penzance to throw responsibility back on the Bishop and his Chancellor by insisting that the Act's provisions were quite simple and clear:

> If, therefore, the fact of the inhibition being in force at a given time takes place, the avoidance[*sic*] inevitably ensues, and the Bishop's duty at once arises. The statutes lay down no further conditions, and none, therefore, can be imparted into them.[73]

Christie could not insist that the information was conveyed to the Bishop in any particular way, and was equally incorrect to claim there was any doubt about the date on which the living became vacant:

> The statute expressly fixes the point of time at the end of three years from the issue of the monition.

Selborne must, it was politely suggested, have been misreported, and the writer in the Spectator "has lost himself in some maze of law."

The implication was that Penzance would not do anything further towards securing Green's release, so it was up to Bishop Fraser and his Chancellor, whatever opinions they might hold

about the proper procedures. Accordingly, on 27th September, Fraser informed Sir Perceval Heywood (the patron) that the benefice had indeed become vacant under the provisions of the Act. If he had hoped that this would now result in Green's immediate release, he was disappointed: indeed whereas before his deprivation, Green could have ended his imprisonment at any point by undertaking to obey Penzance's Court, now that he had no Parish in which to obey or disobey, imprisonment until obedience could mean imprisonment until death.[74] In plain law, it stood with the promoters of the prosecution to apply to Penzance for Green's release on the grounds that he was no longer Vicar of Miles Platting, but the Church Association showed no inclination to do this. The situation seemed as deadlocked as ever, as September turned into October and that month sped past. The Church Congress at Derby at the start of October, as well as covering such diverse topics of discussion as the revival of the Subdiaconate and the influence of the Salvation Army, discussed the stand-off in the Green case, generating in the process more heat than light. During October several suggested ways forward were aired: a short Act of Parliament should be passed; Green should himself petition Penzance's Court for his release; the Bishop should do this for him. The first seemed unlikely given the fate of previous similar Bills, the second was still less likely, given Green's refusal to recognise Penzance's jurisdiction, so again it fell to the Bishop to try.

On 27th October, Fraser finally applied to Penzance's Court for Green's release. The following day it was publicly announced that the learned would sit to hear the application a week hence, on 4th November. The immediate result of this announcement was some confusion: the patron, Sir Perceval Heywood, opposed such an application since it was so inextricably linked with the disputed vacancy of the benefice. He wrote:

> I trust that the Bishop may yet be induced not to make this appeal, for, coming from him, it can but intensify Mr Green's sufferings.[75]

Heywood thought Fraser should instead petition the Home Secretary for the exercise of the prerogative of mercy in Green's case. That Heywood supported Green so firmly was a great inconvenience to all non-Ritualists concerned in the case, since he would refuse to nominate

a new Vicar to the benefice which he considered still to be occupied by Green. If this state of affairs continued, six months after the legal voidance of the benefice, the right to nominate the new Vicar would revert to the Bishop and litigation would no doubt ensue. The situation would be that described by the S.S.C. report, only with these further complications.

On 30th October, notice of the sequestration of the benefice was received by the Churchwardens and affixed to the Church doors. But already Green had come to a decision to resign his benefice, which he did in a letter to Sir Perceval on 27th October and announced publicly a week later. He had come to this decision "without the knowledge or advice of my friends"[76] and was largely motivated by a wish to prevent "our noble and generous patron" from becoming embroiled in what would be a tedious and probably unsuccessful court case. He continued to protest against Penzance, but now, if he were to be released, both parties would be agreed on the practical point that he was no longer Vicar of Miles Platting, even if they did not agree why this was. The Times was unsympathetic:

> He can resign no living, for he has none to resign. He might as well talk of resigning the Lord Chancellorship.[77]

Green's resignation (and the expectation that Fraser would achieve his release the following day) afforded an opportunity for an attack on Ritualists in general. There was a world of difference between the Ritualists, who go "from one depth of unintelligence to another and deeper", and their Tractarian forebears. Green's long imprisonment effectively prevented any further prosecutions of this nature, "but granting that they have got their own way, what do they imagine they have gained by it?" The achievements of the Ritualists were purely aesthetic and unintellectual - their followers, weak and effeminate:

> That they have a following is unquestionable, but it is among women rather than men, or, if among men at all, not among those most remarkable for the higher qualities of their sex.

The following day Penzance sat in a crowded court to hear the Bishop's application, which was presented by the long-suffering Chancellor, Christie. His case was simply that Green should be released on the grounds that sixteen months' imprisonment and deprivation of his living constituted a punishment of sufficient severity, and that the sentence had exhausted

itself on Green's deprivation. Christie was followed by Jeune, who spoke for the promoters of the case; whilst not actively opposing the Bishop's application, he entered a protest, since Green's inhibition referred not only to his own parish but to any Church in the diocese, so he was still in a position to disobey the Court. He also blamed the Bishop for the length of time which Green had spent in gaol: in the Tooth case, the promoters had moved for the clergyman's release as soon as the Church was in the possession of someone who would perform service legally; Fraser had only now appointed a clergyman to take services at Miles Platting. Equally, Jeune urged that Fraser, not being a party to the case, had no business applying to Penzance for Green's release.

Penzance's judgement was a curious mixture of self-justification and petulance. He was surprised, "that an application of this kind should not have been made before on Mr Green's behalf," but blamed Green himself as much as Fraser. He also defended his action in committing Green to prison in the first place:

> In so signifying his contempt, I had an unwelcome duty to perform, but on looking back upon it after all that has happened, I fail to see that I could have done otherwise.

He was now prepared to order Green's release, and dismissed the points made by Jeune: the inhibition had expired along with the monition and so Green was no longer in any position to disobey it, and anyhow the ban on Green's ministrations outside Miles Platting had only been a secondary consideration in the inhibition. He thus concluded Green's imprisonment of nearly twenty months' duration, declaring him to have satisfied his contempt and ordering the Registrar to affix the seal of the Chancery Court of York to a writ of deliverance.

The Times reported Green's release thus:

> At 8 o'clock on Saturday evening an official arrived at Lancaster Gaol from the Archbishop of York's Court with the order for release. The fact was immediately communicated to the reverend gentleman, and he intimated his intention of leaving at once. He remained a short time in conversation with the Archbishop's officer while a cab was procured. The prison doors were then thrown open, and Mr Green was driven to the Midland Railway Station, accompanied by two or three friends. He travelled by the 8-50 train to Morecambe, a few miles distant, where Mrs Green had been staying during her husband's incarceration. Morecambe was reached at 9p.m., and although the release was not generally known, Mr Green was recognized by

several persons at the station. There was, however, nothing in the nature of a demonstration, and the reverend gentleman at once proceeded to his wife's lodgings. He appeared to be in fair health and good spirits.[78]

NOTES ON CHAPTER SIX

1 Both Ellsworth and Marsh inadvertantly misdate Green's imprisonment: Ellsworth, p176 and Marsh, p275.

2 Roberts, p234.

3 *ibid.*, p230.

4 Reynolds, p241.

5 Times, 9 April 1881, p11c.

6 Roberts, p235.

7 Times, 16 May 1881, p6e.

8 K.S.C., Ch71, A9, May 1881, p21.

9 Roberts, p240.

10 Church Times, 2 December 1881, pp836-8.

11 Roberts, p243.

12 Times, 9 August 1881, p10a.

13 K.S.C., Ch71, Z10, Jubilee of the release of the Revd Father Arthur Tooth, M.A., from Horsemonger Lane Gaol February 17th 1877, Society of SS Peter & Paul, London, 1927.

14 A connection not spotted by Marsh (p277).

15 Times, 10 August 1881, p9c.

16 Fong, p388.

17 Roberts, p245.

18 Marsh, p278.

19 Times, 20 September 1881, p7b.

20 *ibid.*, 5 October 1881, p5a.

21 J.C.Macdonnell, Life and Correspondence of William Connor Magee, London, Isbister, 1896, p87. See also Machin, p104-5 and Bentley, p87.

22 Times, October 1881, p9c.

23 c.f. Calder-Marshall, *passim.* Father Ignatius saw it as part of his mission to anathematise "Dean Fremantle's horrible infidelity" on every possible occasion.

24 Times, 8 October 1881, p9c.

25 *ibid.,* 15 October 1881, p9d.

26 Roberts, p243.

27 Times, 6 January 1882, p9f.

28 *ibid.,* 10 January 1882, p10c.

29 R.D.Davidson & W.Benham, Life of Archibald Campbell Tait, Archbishop of Canterbury, Vol II, p457.

30 *ibid.,* p458.

31 *ibid.,* p459-460. Letter of 19 January 1882.

32 II Kings 5:18-19:

> In this thing the LORD pardon thy servant, that when my master goeth into the house of Rimmon to worship there, and he leaneth on my hand, and I bow myself in the house of Rimmon, the LORD pardon thy servant in this thing. And he said unto him, Go in peace. So he departed from him a little way."

33 Roberts, p247.

34 Times, 4 February 1882, p9e.

35 Roberts, p256.

36 *ibid.,* p247.

37 *ibid.,* p246.

38 Times, 13 March 1882, p9d.

39 H.P.Liddon, Life of Edward Bouverie Pusey, Vol IV, p370.

40 Times, 20 March 1882, p6d.

41 *ibid.,* p9c.

42 Roberts, p243.

43 Times, 7 April 1882, p7a.

44 Enraght, p22-23.

45 Roberts, p251.

46 Times, 11 May 1882, p7f. c.f. Marsh, p278.

47 Roberts, p246.

48 K.S.C., Ch.71, A9, Acta of May Synod 1882, p4.

49 Times, 22 May 1882, p6f.

50 Roberts, p252.

51 Times, 24 May 1882, p9e.

52 *ibid.,* 14 July 1882, p9d.

53 Roberts, p255.

54 Times, 14 July 1882, p9d.

55 *ibid.,* 24 May 1882, p9e.

56 *ibid.,* 19 July 1882, p6a.

57 Roberts, p257, misdates it to 19th August, but the event is reported in Times, 17 August 1882, p7f.

58 Marsh, p279.

59 Times, 26 August 1882, p10c.

60 *ibid.,* 28 August 1882, p5e.

61 *ibid.,* 30 August 1882, p8d.

62 *ibid.,* 1 September 1882, p6a.

63 *ibid.,* 13 September 1882, p4b.

64 K.S.C., Ch.71, Z1, S.S.C. Report of the Canon Law Committee on the Probable Effects of Uncanonical Deprivation, presented to the September Synod, 1882.

65 *ibid.,* A Statement of Canonical Principles concerning The Case of a Priest Expelled from His Benefice by the Sole Action of the Civil Power, by a Committee of Clergy, London, W Knott, 1882.

66 *ibid.,* p9.

67 *ibid.,* p15.

68 *ibid.,* p11.

69 *ibid.,* p14.

70 Times, 20 September 1882, p8b.

71 *ibid.,* p7c.

72 *ibid.*, 22 September 1882, p9f.

73 *ibid.*, 23 September 1882, p11f.

74 *ibid.*, 11 October 1882, p8c.

75 *ibid*., 31 October 1882, p4a.

76 *ibid.*, 3 November 1882, p7a.

77 *ibid*., p8c.

78 *ibid*., 6 November 1882, p6d.

CHAPTER SEVEN: FINAL SKIRMISHES 1882 - 1887

Mid toil, and tribulation,

And tumult of her war,

She waits the consummation

Of peace for evermore;

Till with the vision glorious

Her longing eyes are blest,

And the great Church victorious

Shall be the Church at rest.

-Hymns Ancient and Modern No 215.

Green's imprisonment had apparently won a victory for Ritualists against ultra-Protestant prosecutions, and the events of the year following his release were very much in the nature of a winding-down of hostilities, a tying up of loose ends. Despite Green's release, his case had yet to finish its course completely; the cases of Enraght, Baghot de la Bere and Mackonochie were also still alive and causing trouble. Tait was declining steadily towards death, but was ever more concerned to secure peace in the Church of England before the end. Equally, the Royal Commission on Ecclesiastical Courts was still quietly getting on with its task of hearing evidence and deliberating on it. The force of informed public opinion and establishment policy was directed towards peace, though there were still many who wished inflexibly to enforce the law of Protestant uniformity, and the Church Association continued as extreme as ever.

In such quarters it was noted that the precedent cited by Jeune on Green's 'case', was hardly a comforting one. Green, he had claimed, would have been released much earlier, had the Bishop made provision for services at Miles Platting; Tooth had been released on such grounds, but had resisted the Bishop's nominee, continuing to officiate as before. Green's resignation meant there ought not to be any such problems, but on the first Sunday after Green's release (5th November, 1882), W.R.Pym, entering upon his duties at the Church, did

not have an entirely easy ride. At the early celebration of Holy Communion, which was usually attended by upwards of thirty communicants, there was "only one person desirous of communicating" and the service had to be stopped. Then, at the midmorning service, which was attended by large crowds of sightseers, Pym received a protest from both Churchwardens. This was signed by 326, "including the whole of the school officers and the choir", and supported by the patron. It stated that although Green's resignation removed the danger of schism,

> We cannot forget that you were willing to have intruded yourself in any case, and, therefore, we most distinctly state that your presence here is most distasteful to us, and we are unable to welcome you or to hold out to you the right hand of fellowship.[1]

It was yet another case of a parish community being traumatised and imposed upon as a result of Ritualist practice and anti-Ritualist persecution, and its troubles were not yet over. Green himself, however, passed out of the story at this point: his 595 days in gaol, however large the room and hot the fire, seem genuinely to have shaken him. After a period of recuperation, he took up a position as Curate at the Ritualist stronghold of S.John the Baptist, Kensington, remaining until 1888, when he became Rector of Charlton, near Dover in Kent. After a brief period as Rector of Luddenham, Suffolk, he retired in 1915 and died in 1918.

In Enraght's case a similar period of three years since his original punishment had passed on 28th August 1882, and, emboldened by Bishop Fraser's action in Green's case, on 30th October, Bishop Philpott of Worcester gave notice to the patrons of Holy Trinity, Bordesley Green, that the living was vacant. Unlike Green, Enraght was not prepared to take such a move lying down: he was in a stronger position after all, still in possession of his liberty, his vicarage, his church building, and the support of his congregation. He recognised that, almost inevitably, he would have to resign eventually "and the Church must pass into other hands, and, unhappily, into those of bitter enemies"[2], but this he would fight every step of the way. On the same Sunday that Pym was receiving the protest of his new congregation at Miles Platting, Enraght declared from his pulpit that the Notice of Voidance, which he had received

from his Bishop, was a "document of no ecclesiastical or spiritual significance"[3]. He read to his congregation his Licence to minister and based his resistance upon the fact that this ecclesiastical and spiritual document had not been withdrawn.

The following Saturday, 11th November, Enraght presided over a Special Vestry Meeting. There were over 500 parishioners present, and the newspapers noted that

> Several of the speakers hinted at the employment of physical force to eject the new vicar when he came.[4]

A motion was passed, with only two dissentients, to protest at the way the prosecution had been carried in entire disregard of their repeated statements of opposition to it, and at the prospect of Enraght's forcible removal from the Parish.

> And we further pledge ourselves to support the Rev.R.W.Enraght, and to oppose all efforts to deprive us of his ministrations by every means in our power.[5]

The next day, Enraght conducted all the services in the Church as usual:

> Vestments were worn, lighted candles were placed on the Altar, the eastward position was observed, and the mixed chalice and wafer bread were used. There were 220 communicants.[6]

The Bordesley Green case was not consenting to die quietly, neither was the litigation surrounding Mackonochie. Tait now opened negotiations with the Vicar of S.Alban's. Reynolds gives a complete account of the processes whereby Mackonochie was persuaded to cooperate with Tait's deathbed plan to end the litigation. The Archbishop's idea was that Mackonochie should swap livings with Father Suckling of S.Peter's, London Docks and thus escape further litigation. On 1st December, 1882 Mackonochie announced his resignation to Tait, who was too ill to know about it and died the following day: Mackonochie became Vicar of Lowder's old church on 11th of the same month. Tait had died thinking that he had secured at least peace in this, the longest-running of the Ritualist prosecutions, and the Times agreed:

> The late PRIMATE has not, perhaps, extinguished the difficulties which spring from the antagonism between Ritualism and its opponents. But he has at least composed one deplorable quarrel.[7]

The extreme Ritualists and their opponents were less convinced. The S.S.C. was hopelessly divided about the wisdom and efficacy of the move - so much so, that it failed to pass a proposed motion of sympathy with Mackonochie, although the wording explicitly refrained "from addressing an opinion as to the course to be adopted by Priests on future occasions"[8]. Equally, the Church Association attacked the exchange as a "grave scandal" and, since it had at no time involved any kind of commitment to discontinue the Ritualist practices of the two Churches involved,

> A transaction which the Association looks upon as a reproach to the Episcopal Bench, a betrayal of the Protestant Reformed Religion established by law, and a dishonour to the Gospel of the Grace of God.[9]

This did not bode well for the dying Archbishop's wishes.

On 1st December the Appeal Court dismissed John Baghot de la Bere's appeal against the refusal of Queen's Bench (13th July, 1883) to make absolute a rule *nisi* against Penzance. An appeal from the Court of Appeal to the House of Lords was immediately announced; saving this, Baghot de la Bere was liable to imprisonment for contempt of court, and, shortly, deprivation.

As with Mackonochie's resignation of his living on 1st December, it had been generally assumed that the resignation of the long-imprisoned Sidney Faithhorn Green would bring an end of troubles in his case. He indeed had no more tribulations to undergo, but further troubles now emerged for his former Parish. Following Green's (legally irrelevant) resignation, his friend and patron Sir Perceval Heywood nominated Harry Cowgill as the new Vicar: he had been in charge of the parish during Green's imprisonment, and was as convinced a Ritualist as Green himself. Fraser refused to institute Cowgill, as likely to continue the strife. There had been much talk of a "truce" as Tait lay dying, and the Bishop (writing on 4th January 1883) cited this as a reason to object to Heywood's nominee:

> If there is to be a "truce" at all, the only ground upon which it can be reasonably offered or accepted is that both parties should keep within the limits of defined law as it stands, existing provocations being withdrawn and no fresh one introduced.[10]

Other Bishops, notably London, understood the idea of a truce in its more conventional sense of letting both sides remain in peace where they were, rather than forcing the Ritualists to retreat behind the theoretical lines laid down by the courts.

Heywood was furious. There was a provocative visit to the Parish by the former Vicar ("The bells of the church were rung for half an hour in the evening in honour of Mr Green's visit"[11]) and public meetings in Cowgill's favour. There were also public meetings in support of the Bishop, who weakly protested that he did "not wish that a party character should be given" to his action[12]. Cowgill himself seems to have been rather taken aback by all the fuss, and offered to cooperate with Heywood if the latter wished to nominate someone else instead. But negotiations between Heywood and Fraser came to nothing and Heywood resorted to the courts. The Queen's Bench Division consented to issue a writ of *Quare impedit* against the Bishop on 25th January, 1883; Fraser would have to defend his refusal to institute Cowgill, preferably by proving that he "has been guilty of acts which, if he had been a beneficed clergyman, would have rendered him liable to deprivation by ecclesiastical law"[13]. This would not come to court for some time and, meanwhile, Cowgill remained in the parish of Miles Platting, whilst Pym remained in possession of the parish church, but not, it would seem, of any congregation.

At Bordesley Enraght had based his resistance to the Bishop's "notice of voidance" on his status as a fully licensed clergyman. It was more or less a challenge to Philpott to withdraw that licence and on 8th March, 1883 he did so, citing his disobedience to Penzance's judgements. In his place, he now licensed Alan Hunter Watts as Vicar of Holy Trinity, Bordesley Green. This clergyman, a native of Bishopwearmouth,

> who was ordained in 1876, signed a memorial to the late Archbishop of Canterbury against the toleration of ritualists.[14]

As such, he was doubly unwelcome to Enraght and his congregation. In accepting the Bishop's inhibition and returning the keys of the Church, Enraght noted that

> in any other part of Christendom, and in the Church of England, if her spiritual rulers had not handed her over into bondage to the State, and destroyed her

> canonical discipline, your lordship's action would bring down upon you the gravest ecclesiastical censures.[15]

The "intruder" as Enraght referred to him, read himself in as Vicar the following Sunday, Passion Sunday, 11th March and was presented with a protest by his two Churchwardens. He had overturned the "uniform rule and practice" of the entire Church by accepting institution to a benefice which was canonically full, he had allowed himself to be "the instrument of a persecuting association" and was proposing to undo the good work which Enraght had undertaken during his eight year incumbency.

> Your intrusion, therefore, is an outrage upon a Christian congregation, to whom your presence and ministrations can never be acceptable.[16]

Watts denied any connection with the Church Association or the local "Parish Committee" which had overseen the prosecution. The congregation, and Enraght himself, remained unpersuaded:

> The result is that he has chosen Mr Adkins, the chairman of the "Parish Committee," to be his Churchwarden; a Mr Nightingale, a secretary of the "Church Association," to be his Parish Clerk; and, unless I am misinformed, Mr John Perkins to teach in his Boys' Sunday School.

Perkins was, of course, the instigator of the prosecution. Enraght's indignation was heightened by the way Watts broke various rubrical instructions in a Low Church direction during his inaugural service. This service was also disturbed by the large crowds which attended, generally to support Enraght: it was only through the assistance of "a strong body of police" that Watts was borne away unhindered afterwards.

These unruly scenes provoked some criticism and the Churchwardens urged Enraght's supporters to boycott Watt's services altogether. They stoutly maintained that it was not the fault of Enraght's supporters that violence should have been threatened:

> The responsibility rests with those who allowed and perpetrated this outrage upon us.[17]

On 26th March, these disturbances were renewed at the Easter Vestry meeting, attended by several hundred parishioners. Enraght used his status as a parishioner to propose the election of a Dr Taylor as People's Churchwarden, and, once elected, Taylor immediately proposed a

resolution stating that Watts

> was licensed to the cure of our souls at a time when the said cure could not be canonically vacant (the licence of our vicar, the Rev. R.W.Enraght, being at the time unrevoked)[18]

and should therefore resign his meaningless position as Vicar. Watts, unsurprisingly, ruled the attempt out of order and brought the meeting to a swift, if riotous, close.

There was nothing left for Enraght to do except leave the Parish gracefully: there was a meeting on 28th March to bid farewell to him and to his wife, who was presented with 150 guineas, collected by parishioners. An address was presented to the former Vicar, movingly stating:

> For your ready sacrifice of yourself in submitting to persecution, imprisonment, and now casting out from your home and your work, in the cause of the Church, we may be allowed to express our unfeigned admiration; for the ungrudging labour, the great ability, and the unwearied affection with which you have for eight years and a half exercised your office as vicar of our church and parish, we can offer you no adequate thanks. We believe that we shall show our gratitude best by bearing your many lessons in our hearts, and proving them in our lives, when you are no longer here to help us.[19]

The parishioners indeed needed to bear Enraght's teaching in mind, as the persecutors of their former Vicar were now very much in control. Watts was a willing tool in Philpott's hands and readily obeyed him when, at the start of July, he ordered the removal of various Ritualist adjuncts from the Church - the candlesticks and "the steps or platforms by which the Communion table has been raised"[20]. This was yet another case of a Parish community being torn apart by the ultra-Protestant attempts to suppress Ritualism, in this instance a Parish which had been accustomed to Ritualist worship for some considerable time. Unlike Green, Enraght never again held preferment in the Church of England. He died 20th September, 1898[21], and perhaps the last words should be his directed to the Church Association and his unsympathetic Bishop:

> I have only a word to add. May God forgive all who have brought this great sorrow upon us, and lead them to bitterly repent of what they have done; and may He somehow over-rule all to His glory.[22]

Mackonochie's well-publicised exchange of livings with Suckling of S.Peter's, London Docks,

had apparently removed him too from the arena. But this was not so: on 12th April, 1883, application was made to Penzance to "canonically punish" Mackonochie by sentence of deprivation of "all his ecclesiastical promotions within the Province of Canterbury". This occurred now, because of the failure of Baghot de la Bere's appeal, which touched upon the validity of Penzance's actions towards Mackonochie. The hearing finished on 9th June. Ten days later, there was a pleasant respite for Mackonochie, when he was invited back to his old Church to preach on the Patronal Festival.[23] But Penzance gave judgement on 21st July, stating:

> I am ready to pronounce and sign formal sentence of deprivation, which I understand that the promoter has prepared and tendered to me for that purpose. I condemn Mr Mackonochie in the costs of the suit.[24]

Mackonochie was thus in the unenviable position which had been occupied by Enraght: he was according to his own reckoning, canonically as well as physically in possession of his benefice, but no longer had any legal claim to be Vicar. Bishop Jackson was forebearance itself, refusing to nominate anyone to take services there, and only after pressure from the Church Association issuing the required notice of voidance to the patrons on 18th September. Mackonochie and his curates now had no income, and life got increasingly difficult, despite the Bishop's reluctance to do anything beyond what he was compelled to do by law against the Ritualist. Reynolds provides ample detail of this unhappy period in Mackonochie's life. Like the other clergymen "uncanonically" deprived of their benefices, he accepted the inevitable, resigning just before Christmas, 1883. In a letter to the Standard, he explained:

> I have been forced by the logic of facts to see that I ought not any longer to impoverish further a parish, far too impoverished already by its own circumstances, by keeping from it the income which is due to it from the Ecclesiastical Commissioners; I have, therefore, asked the Bishop of London to allow me to withdraw from this benefice.[25]

Unlike other cases, the fall of the incumbent did not involve the destruction of the Ritualist flavour of the Parish Church - Father Wainwright, Mackonochie's successor, had been curate for ten years - and commentators were able to find in this evidence of the general effect of the persecuting policy of the Church Association:

> The Courts which condemned him find their occupation gone; the liberty denied him is enjoyed by the congregations he has served. The triumph of the Church

> Association is strictly personal. They have silenced one self-denying and hard-working clergyman. But as regards the wider ends for which the suit was instituted they have gained nothing.[26]

In its different way, the suits Martin *versus* Mackonochie were as damaging to the ultra-Protestant party as Green's long imprisonment: the protracted duration of the case suggested persecution, the vast sums of money which the endless appeals cost indicated that such prosecutions achieved nothing but waste; the way the dying Archbishop's wishes had been ignored by the Church Association in this final leg of the prosecution did not reflect well on it; and Mackonochie's subsequent nervous breakdown and death convinced many who were not themselves Ritualists that a policy of live and let live was preferable to such results.

In midsummer 1883, during the stand-off in Mackonochie's case, when he had been deprived of his living by Penzance, but Bishop Jackson was showing reluctance to do anything about enforcing the judgement, the report of the Royal Commission on Ecclesiastical Courts was published. It had been very much in the nature of a stalling exercise when it was first announced, and its report now appeared at a time when the Establishment and the public at large were relieved to observe the gradual dying off of the various Ritual prosecutions which had become tedious and, to many, irrelevant. The report recommended a more ecclesiastical mode of administering justice in the Church, with the Bishop of each diocese exercising a less fictional authority through his court. To some extent, then, the Ritualist viewpoint had been accepted, though the S.S.C. disapproved of the retention of any form of state interference in ecclesiastical appeals.

> No system of ecclesiastical Courts, the decisions of which are permitted to be overruled or revised by a secular tribunal as a Court of Final Appeal, is capable of binding the conscience of Christian men in things sacred [but] the only Court of Final Appeal binding upon the conscience of Catholics is that of the Synod of the Province, subject to the judgement of the whole Catholic Church.[27]

Similar opinions were expressed by the E.C.U. in January of the following year[28], although it attempted to place its emphasis on the positive reflection that the report had justified the long-standing Ritualist contention "against the authority of the Judicial Committee of the Privy Council and the Courts subject to its jurisdiction in matters touching the doctrine,

worship and spiritual discipline of the Church."

So at this stage one can see that although Ritualist opinion was still considered "extreme",it had influenced the outcome of the Commission significantly. The Times sardonically commented that the suggested new responsibilities of the Bishops were such that:

> If there be any members of the Church who might be expected to dissent from the plan, it will be the bishops themselves.[29]

On the same day that the report was issued, 14th August, there was an excitable public meeting in Miles Platting. Litigation was dragging on here, despite Green's departure, and Sir Perceval Heywood spoke at length of his forthcoming suit against Fraser.

> He expected that the case would be decided in his favour, but if it was decided against him it had been intimated to him that he would lose the presentation of the living.[30]

Cowgill, over whom the patron and the ordinary were quarrelling, also addressed the meeting optimistically: in future, Ritualists would "receive better treatment" from the authorities, evidence for this included the appointment of "distinguished Ritualists" to "high offices in the Church" of late (he did not name names) and the expected deliberations of the Ecclesiastical Courts Commission. Sir Perceval also attempted to keep the Ritualist cause, together with his own action against the Bishop, in the public eye by copious letters to the national press[31]: in these eloquent offerings, he portrayed the entire prosecution of Green as an indirect attack on himself for his involvement with the moderately Ritualist Woodard Schools. He also suggested that the new Archbishop of Canterbury, Edward White Benson (who had been enthroned at the end of March) or failing him, the Prime Minister, should appoint a commission to investigate the case. From these points one might conclude that Heywood was rather a "loose cannon" for the Ritualist Movement, prone to an exaggerated sense of his own importance in matters of Church politics. Certainly, this was the view taken by the ultra-Protestant Lord Oranmore, who savaged Heywood's "sensational view"[32] of the matter. Other correspondents took a similar view: a Charles Fay, who had taught Sunday School under Green's predecessor, attacked Heywood's contention that "previous to Mr Green's arrival, the parish was in a neglected state"; "A Parishioner of St John's, Miles Platting", as

well as noting that Green on his release from gaol "looked the reverse of a man with broken health", suggested that Heywood was aware that the suit would go against him "and to counterbalance it he is seeking public sympathy beforehand"; and a neutral observer, a John Wilson of Congleton, demolished Heywood's contention that the parish was united behind Cowgill - the attendance at Cowgill's services had been slight, predominantly middle-class and from outside the parish.[33]

After such debate, irrelevant to the legal question in hand, but nonetheless damaging to Heywood's chances, the case was heard before Baron Pollock on 10th and 11th December, 1883. Judgement was given in favour of Fraser on 23rd January, 1884 on the grounds that Cowgill had committed Ritualist offences which would have warrented his deprivation if he had held a benefice at the time. The Bishop subsequently imposed his own nominee on the parish, and the tail-end of the Miles Platting case was ignominiously concluded.[34]

About the same time the remaining Ritualist prosecution was also coming to an end. John Baghot de la Bere, of all the clergy prosecuted in the 1870s, was perhaps least fortunate; he had neither the fashionable city notoriety of Mackonochie nor the white robes of martyrdom worn by Tooth, Dale, Enraght and Green, yet suffered as long and as tedious a legal struggle. He had appealed to the House of Lords early in the year, but now allowed this application to lapse:

> It was felt that the heavy expense of further litigation could not justifiably be incurred in prosecuting an appeal as to which it was very improbable that the House of Lords would reverse the judgement of the two lower Courts on the technical points alleged.[35]

Such a decision may have reflected a general lack of enthusiasm for litigation following the Ecclesiastical Courts Commission Report. It was certainly a surrender on Baghot de la Bere's part: on 2nd January, 1884, Bishop Ellicott sequestrated the income of the benefice and gave notice to the patron (de la Bere's father) that it was legally vacant. Following a now familiar pattern, de la Bere remained in possession of his parish and continued to minister, denying that the notice of voidance had any ecclesiastical validity. Unlike Maclonochie, he had to his

advanatage the fact that he had substantial private means. The promoter of the suit applied for a writ *mandamus* to force the Bishop to prevent de la Bere continuing to take services by nominating another clergyman to minister during the putative vacancy, but on 15th April, Ellicott made it plain that he would refuse to interfere in this way. Recognising his impossible position, de la Bere resigned his living now, bringing to an end his twenty-six year incumbency. He bade farewell to his former flock by preaching on John 21:15 ("Feed my sheep") and attending a public meeting in his honour on 1st July 1884.[36] At least he was secure in the knowledge that the tradition of Ritualist worship would be maintained in his parish, since no objections were made by the Bishop to the nomination of a Father Gurney, Vicar of S.James', Plymouth, who had been schooled in Ritualism by George Rundle Prynne.[37]

Whilst de la Bere's was the last of the cases with which this study has been concerned, and it would be pleasant to be able to end the survey of this period of Ritualism on the upbeat note struck by the continuation of High Church ceremonial and teaching in the little parish outside Cheltenham, this would give a false way. Although it might in general be true that the ultra-Protestant fury of the 1870s had burnt itself out by 1884 and that the episcopate was more concerned to preserve peace through latitude than to enforce strict uniformity, it was not the case that with the final departures of Mackonochie, Enraght, Green and de la Bere from the Punch and Judy show of ecclesiastical litigation that the stage remained empty. Peace, although enlarged, cannot be said to have prevailed entirely in the Church of England at the close of 1884.

It is not within the boundaries of this present study to trace in detail the later Ritualist prosecutions, but notice must nevertheless be taken of the troubles which were just beginning at the same time that the previous prosecutions were drawing to their close. The new Vicar of S.Matthew's, Sheffield, George Ommanney, although only a moderate Ritualist, was attracting much ultra-Protestant attention because of his unremitting teaching of Catholic doctrine. A series of complaints were made to the Archbishop of York against his Ritualist

practices, and these were exacerbated by a disputed election of churchwardens at Easter 1883, resulting in an unsuccessful prosecution of the ultra-Protestant churchwarden for "brawling in Church"[38]. Archbishop Thompson did not help matters by suggesting that the churchwarden's behaviour had been Ommanney's fault since he had only been trying to prevent the commission of Ritual illegalities in the purification of the vessels after Communion. All this was accompanied by the threat of mob violence which had been such an unpleasant feature of earlier cases: Ommanney himself described it thus:

> All that spring and summer [1883] there was excitement and almost rioting beyond what anyone would believe possible now. For six weeks I had to go out of the back door of the Church on Sunday evenings to avoid being mobbed. As I went to the Church on weekday mornings, I used to see the placards of the two Sheffield newspapers with "THE ARCHBISHOP AND OMMANNEY", generally meaning that a letter had come from his Grace which was published before I saw it. Preachers of an alleged Gospel used to come outside the Church after service to preach against me.[39]

There was little sign of the attitude of "live and let live" in such events, despite all that had gone before in the courts. Still, a sign of the changed times was that Thompson did not allow any kind of prosecution. Instead, he issued a commission to some local clergy to investigate the case, a project which took several months and served chiefly as a means of gaining time, in the hope that the agitation would die down. Such an expedient seems to have worked well in the short term, but Ommanney's Church would remain a flash-point for trouble in the decades to come.

If Ommanney's was the new case of 1883, the following year saw a yet more atavistic example of ultra-Protestant action. Roberts wrote of 1884:

> In itself this proved to be one of the least eventful years in the annals of the E.C.U., but it was ominously marked by the beginning of the Bell Cox prosecution.[40]

James Bell Cox was Vicar of S.Margaret's, Toxteth Park, Liverpool and had been subject to anti-Ritualist agitation since 1879. Bishop Ryle of Liverpool was as extreme an Evangelical as could be found on the episcopal bench at this time, having been appointed to the newly-formed diocese in 1880. He had from the first set himself to deal with the extreme Ritual in Cox's miniscule Parish, but it was only after the failure of overtures in the character

of "Bishop and friend"[41] that he allowed a case to be brought against him by a Dr Hakes under the Church Discipline Act. Ryle was the only Bishop who would allow such action; indeed he declared in a letter to the Cleveland and South Durham District Union that:

> On principle I entirely object to the exercise of the episcopal veto. When a complaint is made to me against any Clergyman I have no Court to which I can send it except that of Lord Penzance. when you and your friends can provide me with another Court instead, I shall be happy to use it.[42]

The Bishop was in a minority of one, it seemed, and eventually washed his hands of the affair. Public opinion and press comment was so adverse that even the ultra-Protestant party was divided as to the wisdom of the prosecution.

> The *Rock* and the *Record* demurely withheld their *imprimatur*; whilst the Church Association hastened to wash its hands of the matter. Only the *English Churchman* was found faithful.

The ill-fated prosecution advanced on familiar lines. Cox refused to have anything to do with Penzance's compromised authority, was admonished (July 1885), suspended (January 1886), and suspended again following technical mistakes with the serving of the original Decree of Suspension (April 1886). On this occasion, Penzance made it clear that the only further action which could be taken was to apply for a *significavit*, which would lead to Cox's imprisonment. Such application was made at the end of July 1886, was contested predictably enough through Queen's Bench (March 1887) and subsequently in the Court of Appeal. These attempts to defeat the ultra-Protestants on technical grounds (that Penzance, now somewhat elderly, had not pronounced judgement in person, but had acted through a Surrogate in York) failed, and Cox accordingly became the fifth Ritualist clergyman to suffer imprisonment for conscience's sake. He was arrested on 5th May, 1887, four and a half years after Green's release. His imprisonment was of a far more brief duration, however, since a writ of *Habeas Corpus* was obtained on the grounds that since the second sentence of suspension passed by Penzance had expired in December 1886, there was nothing of which Cox could be in contempt at the time of his arrest. His release accordingly came on 22nd May and, although troubled by further anti-Ritualist agitations , he remained Vicar of his Parish until his death in 1922.[43]

Cox's case was an isolated one, uncharacteristic of the preoccupations of the English Church

in the mid and late 1880s. The celebrated trial of the Bishop of Lincoln in 1889 represented a somewhat desperate attempt by ultra-Protestants to show up Ritualism in high places, using an authority - that of the Archbishop of Canterbury himself - which could not be rejected as Erastian. If the Cox trial was atavistic, the trial of Bishop King might appear to be downright bizarre. Benson at least managed to give a judgement which defused the situation without wholly giving in to either extreme party. The period of peace which ensued in the Church of England on the Ritualist question provided space for Ritualist advances both in quality and quantity and lasted until the Kensitite agitations at the end of the century.

NOTES ON CHAPTER SEVEN

1 Times, 6 November 1882, p6d.

2 *ibid.*, 7 November 1882, p10c.

3 Enraght, p23.

4 Times, 14 November 1882, p12a.

5 Enraght, p24.

6 Times, 14 November 1882, p12a.

7 *ibid.*, 12 December 1882, p7c.

8 K.S.C., Ch.71, A9, Acta January Chapter 1883.

9 Church Association, Manifesto on the Resignation of the Rev. Mr Mackonochie, January 1883.

10 Times, 6 January 1883, p6b.

11 *ibid.*, 17 January 1883, p9f.

12 *ibid.*, 22 January 1883, p9f.

13 Law Journal, 2 February 1883.

14 Times, 9 March 1883, p5f.

15 Enraght, p27.

16 *ibid.*, p28.

17 Guardian, 19 March 1883.

18 Enraght, p32, also Times, 27 March 1883.

19 Midland Echo, 29 March 1883.

20 Times, 5 July 1883, p7f.

21 K.S.C., Ch.71, Z10.

22 Enraght, p36.

23 Times, 20 June 1883, p12f.

24 Roberts, p266.

25 Standard, 29 December 1883.

26 Guardian, 2 January 1884.

27 K.S.C., Ch.71, A9 Acta September Synod 1883, p4f.

28 Roberts, p269f.

29 Times, 15 August 1883, p9f.

30 *ibid.*, 15 August 1883, p10f.

31 *ibid.*, 22 September 1883, p10d.

32 *ibid.*, 26 September 1883, p6f.

33 *ibid.*, 2 October 1883, p3f.

34 Roberts, p268.

35 *ibid.*, p267-8.

36 J.Baghot be la Bere, The Pastor and the Flock. Last words of sorrow and of hope. A farewell sermon on John xx1.15 [...] Also a Report of a Meeting held at Prestbury [...] July 1st 1884, London, Kegan Paul & Co, 1884.

37 cf Kelway, George Rundle Prynne.

38 cf Times, 3, 4 and 9 April 1883.

39 Belton, Ommanney, p77.

40 Roberts, p276.

41 *ibid.*, p278.

42 *ibid.*, p278-9.

43 cf Roberts, pp277-283, 288-9, 298, 336. See also Prestige, Gore, p28f.

CONCLUSION

A number of questions require consideration at the end of an historical survey such as this. To what extent could the attempts to suppress Ritualism be deemed a failure? If they were indeed a failure, what reasons could be adduced to explain this? What do the events of the 1870s and 1880s indicate about Ritualism and about the Church of England itself? Such answers as may be suggested will inevitably cover more than a single one of these aspects: the extent of the failure of the anti-Ritualist onslaught, for example, must indicate something about the relative strengths of the opposing parties, whilst these relative strengths and weaknesses go some way towards explaining the form taken by the end results of the struggle.

Questions about the material which has been used for this survey need also briefly to be addressed. The S.S.C. records present a fairly straightforward picture of the cutting-edge of Ritualism: the blood-letting of 1877, although weakening the Society for the remainder of our period, left it purified and strengthened in its resolution. Less clear-cut is the picture presented by the other main source for this survey: the Times newspaper is notable for its varying, not to say inconsistent, viewpoint. It acted sometimes as Tait's mouth-piece, sometimes as Disraeli's; after ardently supporting the 1874 Act, it quickly recognised that ~~the~~ only the Bishops themselves could deal with the situation; yet later on, it urged Mackonochie's summary imprisonment. This inconsistency is deeply significant, mirroring the lack of consistency shown all along by the defenders of the Act and epitomising the failure of English liberal and Protestant opinion to understand Ritualism. The rapidity with which the attempt to "put down Ritualism" was abandoned by the Times, among others, hardly suggests any deep-rooted Protestant conviction.

The period which has been under scrutiny represents the second phase of the Protestant battle against the opposition within the Church of England. The collapse of the case against William Bennett at the start of the 1870s meant that subsequent attacks would be on Ritualist practices rather than on their doctrine: to the extent that the aim of both the Church Association and the episcopate was to eradicate certain Ritualist practices from the services

of the Church of England, these attempts were unmitigated failures. Not only were vestments, and other ceremonial adjuncts to divine worship more widespread at the end of the period than they had been at the beginning, but today, over a century later, many aspects of Ritualist practice have become the normal Anglican way of doing things. But one cannot simply be content with such superficial conclusions: the Protestant opponents of Ritualism were perfectly clear on the fact that Ritualist ceremonial was objectionable not in itself but for the doctrinal position which it represented and implied. They were attacking the doctrine indirectly when they attacked the ceremonial. But it would appear that on this level too, the attempt to suppress Ritualism was a failure: although in the second half of the present century much of the Catholic doctrinal material which the Church Association found so offensive has lost its perceived connection with the outward ceremonial and nowadays a chasuble is no guarantee of "sound" Churchmanship, this cannot be attributed directly to the period under consideration. As many clergymen and layfolk believed Ritualist doctrines at the end of the period as did at the start, so far as anyone can ascertain. A third aspect of the disputes in which it is apparent that the anti-Ritualists failed was that their efforts were mainly conducted through the legal system and using the "law of the land": the Erastianism of such a policy may be contrasted with the procedure followed by Archbishop Benson at the end of the 1880s with the Lincoln case. Instead of proving an effective weapon, the laws and courts to which the ultra-Protestants appealed showed themselves to be blunt instruments and served to emphasize the need for a "distinctively ecclesiastical authority".

Reasons for this failure may be divided into those concerning the weaknesses of the ultra-Protestants and the Erastian Establishment and the positive strengths of the Ritualist policies. There is of course an area of overlap, since much of the Ritualist success sprang from successful exploitation of the weaknesses of the aggressors. One weakness has already been hinted at: this was that whilst the Church Association opposed Ritual because of the doctrine which it symbolised, the Bishops and the secular establishment based their opposition more on an Erastian attachment to the existing law courts and the *status quo* in the Church of England. It was therefore possible for the conservative reluctance to countenance novel

ecclesiastical practice to become separated from the ultra-Protestant hatred of anything resembling Catholicism: ultimately, the Bishops and the government did not care about the dispute with the fervour of the Church Association. When Ritualist resistance had made the complexity and difficulty of the task abundantly clear, it was natural that the Establishment would rather lose interest in the suppression of the movement and thus leave ultra-Protestants out on a limb. Certainly, towards the end of the period under consideration, the idea that Ritualism would go away if a few clergymen were made examples of was no longer believable and the Establishment's policy seemed instead to be to engage in delaying tactics such as the Ritual Commission. In that the situation within the Church was calmed down by such methods of stalling for time, the policy was a short-term success; the problem was that in the long-term this could only benefit the Ritualists who took advantage of the new truce in the Church to extend their teaching. The Ritualist clergy were accordingly more deeply entrenched when the Kensitite attacks arose at the end of the century.

Indeed the entire opposition to Ritualism was characterised by short-term thinking. Archbishop Tait's deathbed resolution of the persecution of Alexander Mackonochie achieved little except to separate him from his congregation, yet it allowed Tait to die heaped with praise for his having achieved peace in the Church. But if the dying Tait might be forgiven for such short-term thinking, the very much alive Tait and Disraeli at the time of the passing of the 1874 Act stand convicted of very much the same failure to plan far enough ahead. That the Act had no single guiding force behind it was perhaps the greatest of its flaws, but neither Disraeli nor Tait had properly thought it out. The Prime Minister considered it to be a useful way of increasing his popularity with the voters, and Tait's involvement with the Act was largely a reaction to the threat that if he failed to act, then someone of more extreme opinions would do the job for him. The short-sightedness of the Act extended beyond the embarrassing failure to make any provision for the salary of the new judge: it was not anticipated that it would lead to the prolonged imprisonment of clergy for contempt, nor was it noticed that the Church Discipline Act remained on the Statute Book and was in fact more straightforward than the Act designed to take its place.

The Church Association itself could also rightly be accused of short-sightedness, in that it failed to consider the likely results of some of its actions on the public support which it was so vital to maintain. The obvious example is the failure of ultra-Protestants to realise how the public would view the imprisonment of clergymen for contempt, but there were plenty of others: Enraght's persecutors refused to cooperate with his Bishop when he was trying to be conciliatory, and the Church Association either did not realise or did not care how such disobedience would look; Dale's prosecutors effectively stole money from the charitable trusts of his Parish in order to pay for spies and informers to attend his services and either did not realise or did not care how such conduct would be viewed; the same could be said of the production in Court of a consecrated wafer in the Green case. Such scandals went some way towards separating John Bull's Protestantism from his love of fair play, to the detriment of the former. The Association does not, however, give the impression that it was very well organised: by 1879 it was equally divided in opinion as to how it should proceed. Some still wished rigorously to enforce the Public Worship Regulation Act as it stood, others wished to campaign for its amendment and there were also those who sought to bypass the problem by bringing the Church Discipline Act out of retirement. Too much however should not be made of the internal divisions within the Church Association, since exactly the same observation could be made of the Society of the Holy Cross or the English Church Union. Nevertheless, the Church Association's handling of a situation where they did after all represent widespread British prejudice against Catholic-type practices might be considered inept. Attempts to pass off mob violence against Ritualist Churches as the fault of the lawbreakers who ministered in them were as unconvincing as their insistence that it was necessary for all Green's property to be sold at public auction to pay for the costs of hiring spies to attend his services and testify against him. It was perhaps a case of common sense failing to keep up with excessive zeal. The failure of the ultra-Protestants to tap the anti-Catholic prejudices of the majority of Englishmen may also have been due to the almost complete lack of theological heavyweights in their ranks: the tracts put out by the Association make dry reading and are at least as concerned with legal technicalities as they are with the living Gospel to which

ultra-Protestants laid claim. Such weakness and mismanagement makes the eventual tacit abandonment of the Establishment's attempt at suppression all the more understandable.

Equally damaging to the chances of anti-Ritualists was the apparent inability of the Bishops and government lawyers to administer their own laws without making technical mistakes. Whilst this was partly a result of careless drafting of the original law, the mistakes which were made could easily have been avoided if greater attention had been paid to the wording of the statute when it was being used. The problems about where Lord Penzance could exercise his jurisdiction and blunders like the infringement of the Pluralities Act by the appointment of Canon Gee to take services during Tooth's suspension were blunders which the Ritualist lawyers could use with great effect. The importance of such technicalities was not that they enabled Ritualist clergymen to escape from the Courts (by and large, they did not) but that they painfully underlined how lengthy, costly and unproductive of results the attempts to prosecute Ritualists were. Public opinion could easily be swayed in the direction of thinking that such prosecutions were a waste of time and money, and the Times was notable in its conversion to this view towards the end of the 1870s.

If the 1870s and early 1880s represented a failure on the part of anti-Ritualists, it cannot be said with such assurance that these years saw any unequivocal victory on the part of Ritualism. In achieving survival, indeed, the movement inevitably became more diffuse: the Purchas Judgement and the furore over the Priest in Absolution brought about a closer cooperation between Ritualists and more moderate Tractarians and thus checked Ritualist extremism. In passing, one might do well to notice also that anti-Ritualist polemic tried to drive a wedge between Ritualism and the older Oxford Movement, thus for the first time presenting the older Movement as something positive for the Church of England rather than categorising it as deeply subversive. The period which has been examined also saw a significant weakening in the connection between doctrine and ceremonial, resulting from the concentration of anti-Ritualist fire on the latter. This tendency was also mirrored by the increase in moderate Ritualist practice (such as lighted candles and coloured stoles) in parts

of the Church of England which could not be described as Ritualist. These were however only the beginnings of the diffusion of Ritualism into a generalised influence within the Church of England and reports of the movement's demise were much exaggerated.

That Ritualism was relatively disunited should be apparent from the account of the S.S.C. which has been given: even this hard-line body was prone to substituting discussion for concerted action and different members had different priorities. Enraght and Green differed on the importance of the mixed chalice, Ridsdale and Tooth on the way to respond to the new Act and virtually everyone in the Society disapproved of Mackonochie's exchange of benefices at the time of Tait's death. Whilst it might be observed that the Society's emphasis on the restoration of Convocation as a democratic body was in curious contradiction to its Catholic emphasis on an hierarchical Church polity, it nevertheless played a significant part in the Church of England's rediscovery of synodical government.

Opponents of Ritualism claimed that it was a spent force, because the Gothic style was no longer in fashion and high ritual was so closely linked with the Medieval. This was partly true, although the early 1890s were to see a resurgence of aesthetic interest in medievalism, but insofar as it *was* true, it actually represented a strengthening of Ritualism, since it meant that the movement would be rid of the less-committed hangers-on. The extent to which the movement was eventually to outgrow the Medieval ethos was apparent in the "Back to Baroque" years of this century, and the triumph of Roman ceremonial over the "British Museum School" of ceremonial associated with the Alcuin Club. One should not, anyhow, underestimate the aesthetic, other-worldly power of attraction in what was a form of religion which made full use of some of the finest designers and craftsmen of the age.

The effect of the Ritualist controversy of the 1870s on the Church of England as a whole was significant in the extreme. That Ritualists were suffered to continue their practices led to the Anglican comprehensiveness in doctrine and practice which is almost the defining feature of Anglicanism today, though of course this might also be said of the Oxford Movement of thirty

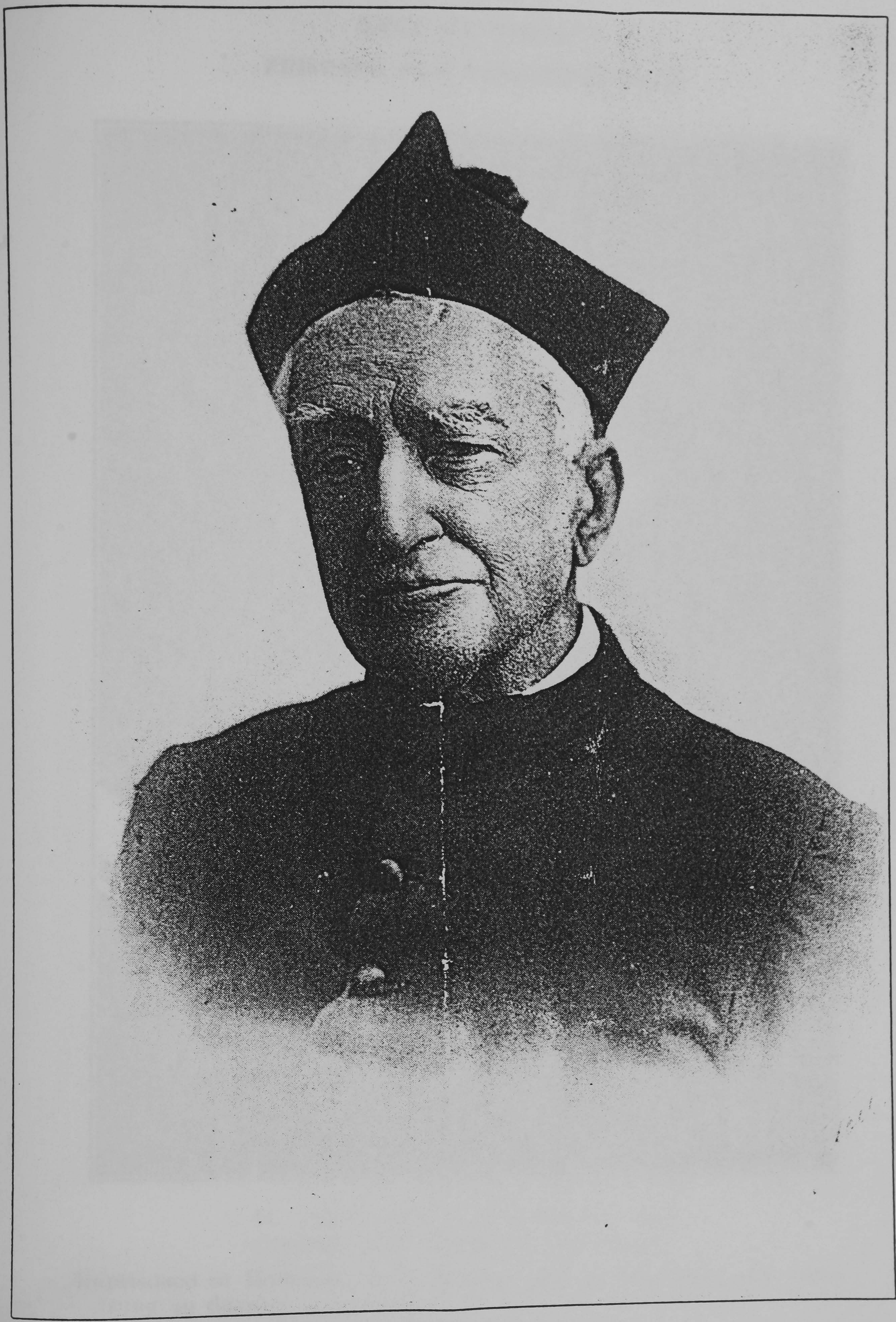
years before. That the controversy of the 1870s was concerned with visible practices rather than theories and doctrines made the breakdown of uniformity rather more obvious. It was also the case that the practical congregationalism produced by Ritualism marked a distinct change of style from the geographical parish to the gathered congregation. In this way, it brought about a further weakening in the Church of England's hold on the rural parishes in which there was no possibility of disgruntled parishioners simply transferring to a different Anglican place of worship as in a town.

The more short-term results of the Public Worship Regulation Act were of some significance too. Bentley (pp80-96) summarises them admirably: the Act fostered closer union between the old-fashioned Tractarians and the Ritualists; it confirmed the Ritualist tradition of intransigence towards the civil courts and contributed towards a political backlash against the Conservative Party. More nebulously, it caused certain Ritualists to advocate Disestablishment and, because there was no hope of preferment for extremists, encouraged the social conscience for which Ritualists were already known and admired.

Ritualism was, nevertheless, symptomatic of the late Victorian decline in the Church of England's hold on the English nation. Doctrinally, it represented a resurgence of rigid conservatism bordering on anti-intellectualism: such Biblical fundamentalism was increasingly unconvincing in a society which thought of itself as modern, scientific and advanced. If the Church of England was losing its grip on the minds of the educated, it had largely already lost any hold which it may have had over the urban poor, and here at least Ritualist clergy were acting to stem the decline. That there was such a gap in the market which allowed Ritualists to become inextricably linked with ministry in the slums was in itself symptomatic of how far the decline had progressed by this period. Medieval and obscurantist though the Ritualist message was, it did indeed appear to make an impact on the urban poor at least as significant as the Evangelical equivalent, the London City Mission.

To conclude, despite the equivocal role and significance of the Ritualists, one cannot but be

left with a lingering admiration for these obstinate and brave men whose stand against authority and majority opinion won both survival for their movement and achieved lasting influence on the Church of England as a whole. That Mackonochie, Tooth and the like would still find themselves in an embattled minority in the Church of England today should not be allowed to detract from their example and conspicuous courage; indeed, it is for their stubborn opposition to the majority, the Establishment, that they deserve to be remembered. In what often appeared a battle against hopeless odds, they did not give up hope.



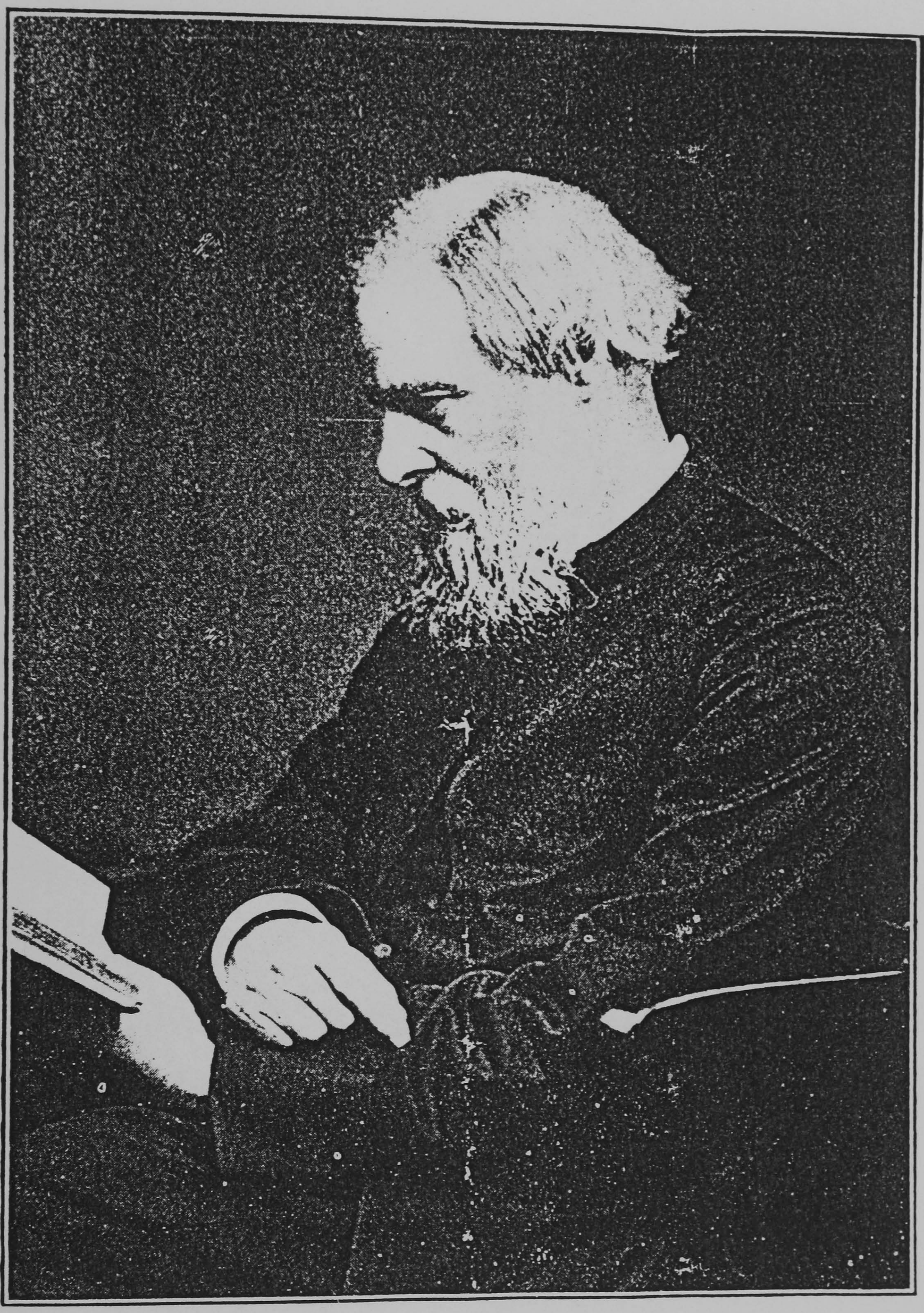
Lewis] [*Croydon*

THE REV. FATHER TOOTH.

Warden of St. Michael's Home, Otford, Court.

LEST WE FORGET!

PRISONER FOR CONSCIENCE SAKE



II. THE REV. T. PELHAM DALE.
Rector of St. Vedast, Foster Lane.

Imprisoned in Holloway Gaol, October 30th to December 18th, 1880, being 49 days.

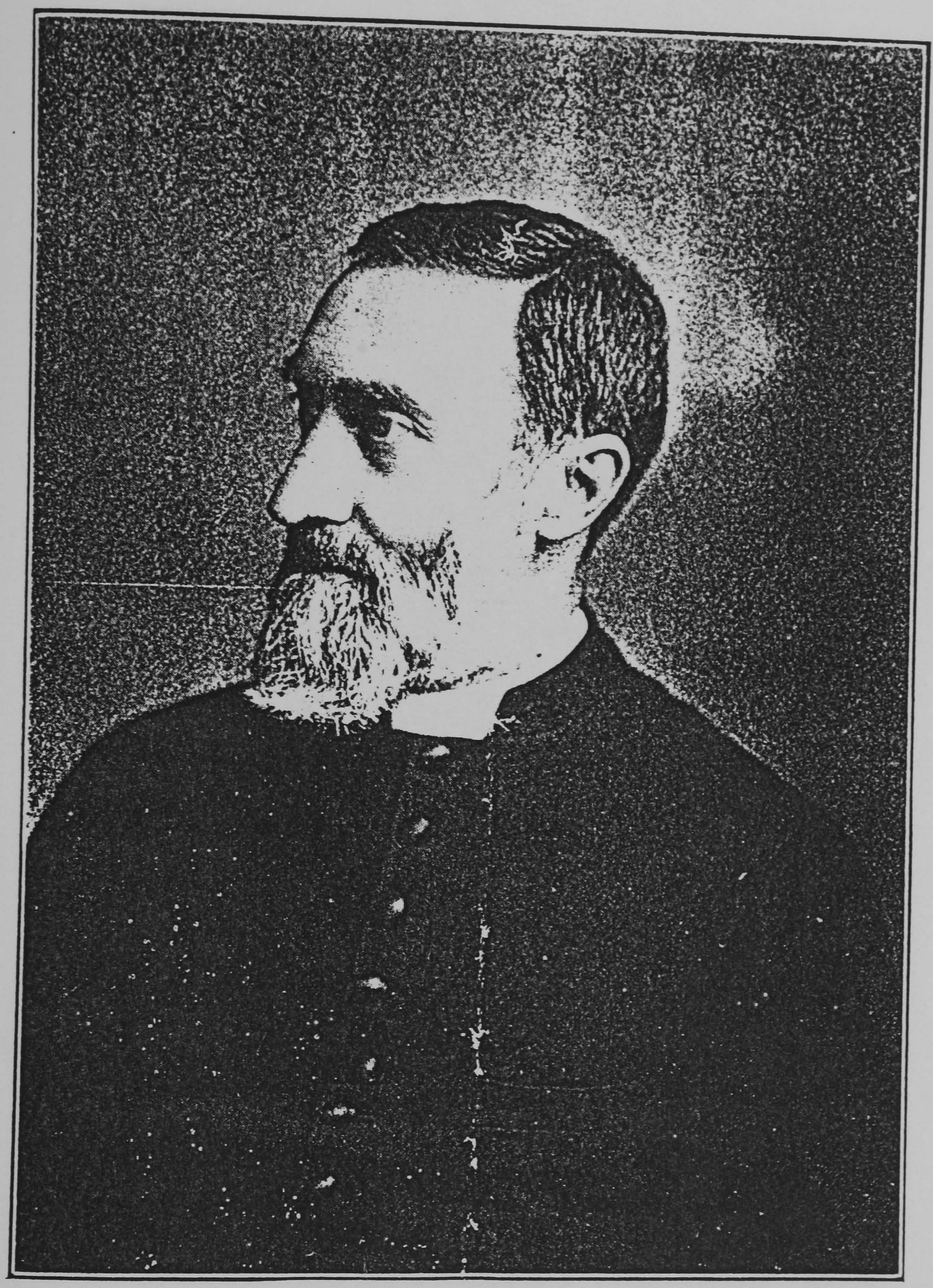
Died April 19th, 1892, as Rector of Sausthorpe.

Requiescat in pace.

By kind permission of Messrs. Fradelle and Young, London.

LEST WE FORGET!

PRISONER FOR CONSCIENCE SAKE.



III. THE REV R. W. ENRAGHT.
Rector of Holy Trinity, Bordesley.

Imprisoned in Warwick Gaol, November 27th, 1880 to January 17th, 1881, being 49 days.

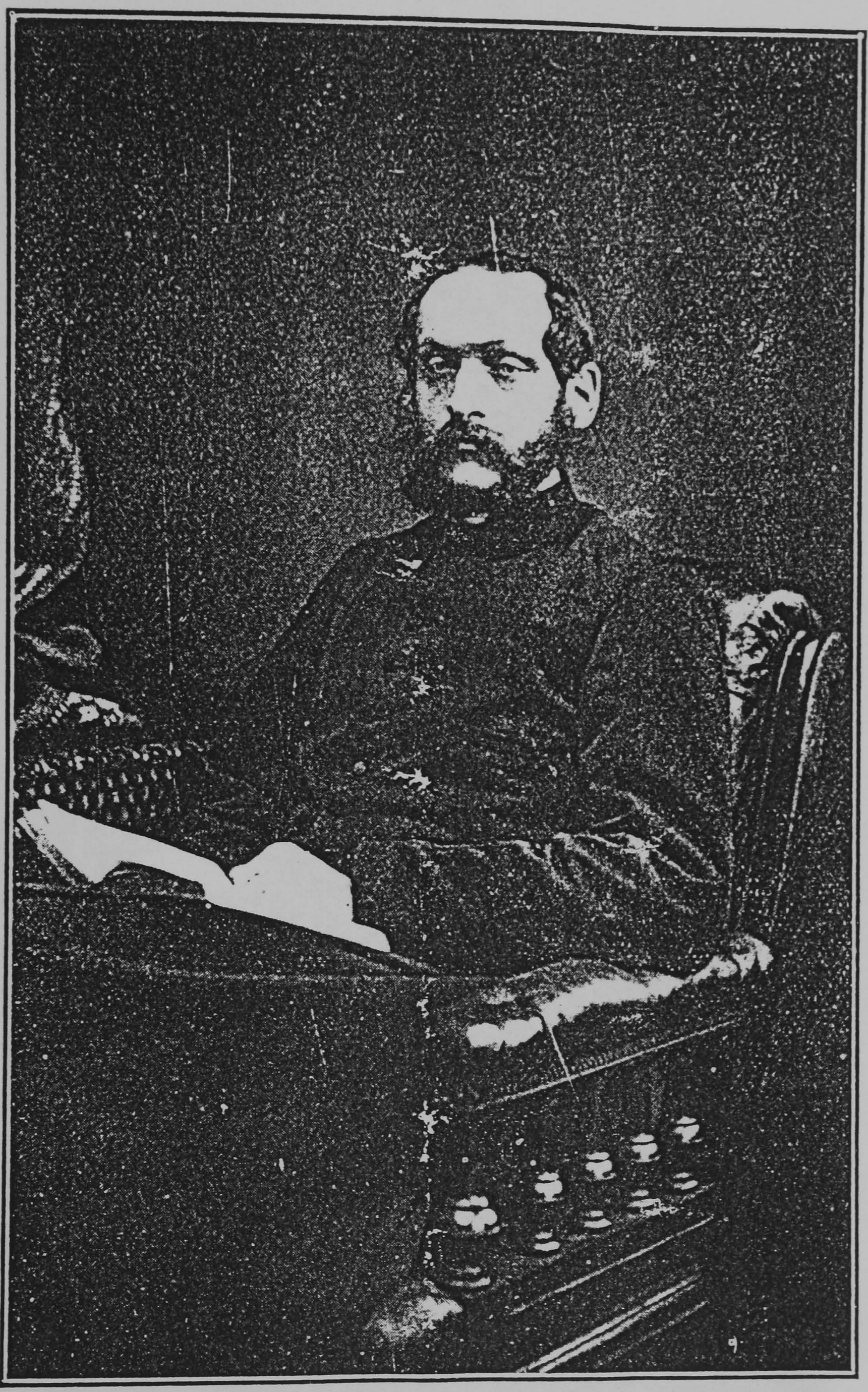
Died September 20th, 1898.

Requiescat in pace.

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LEST WE FORGET!

PRISONER FOR CONSCIENCE SAKE.



IV. THE REV. SIDNEY FAITHORNE GREEN.

Rector of St. John's, Miles Platting, 1869-82.

Imprisoned in Lancaster Castle, March 18th, 1881, to November, 5th, 1882, being 595 days=20 months.

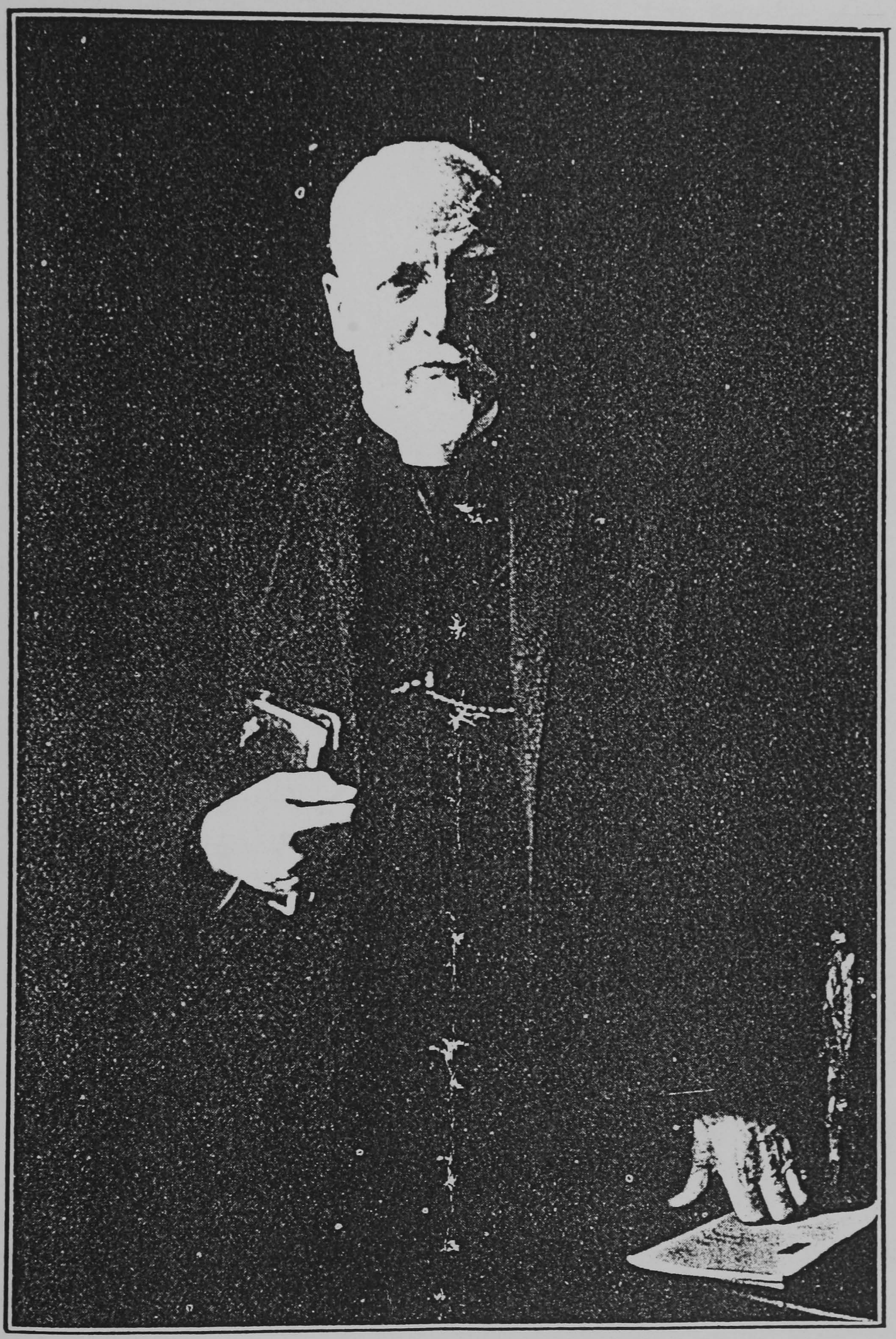
Curate of St. John Baptist, Kensington, 1883-88; subsequently Rector of Charlton, Dover. Rector of Luddenham, 1914-15. Died 1918.

Requiescat in pace.

By kind permission of Mr. Warwick Brookes, 350 Oxford Street, Manchester.

LEST WE FORGET!

PRISONER FOR CONSCIENCE SAKE.



V. THE REV. J. BELL-COX.

Vicar of St. Margaret's, Liverpool, 1869-1922.

Imprisoned in Walton Gaol, Liverpool, May 5th to 21st, 1887, being 16 days. Died 1922.

The portrait is from a photograph taken for the children of the Home and Orphanage.

Requiescat in pace.

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It only remains for the writer to record his thanks to those who have helped him with the completion of this volume: firstly to my supervisor, Dr Sheridan Gilley, without whom this would never have seen the light of day: also to those who provided material assistance in the way of information and books - Msgr Leslie Bird, Father Peter Blagdon-Gamlen, Father Peter Cobb, Msgr Francis Glenn, O.S.C., Mr Barnaby Huish, Mr Peter B.Nowell, Father Michael Mowbray Silver and Mrs Joan Robson: and finally to those who offered encouragement and helped to keep me [dubiously] sane during the years this thesis was in preparation - among others, Miss Helen Best-Shaw, Father Ignatius Harrison of the London Oratory, Mrs Jane Huish, Dr Alan Coates Klottrupp, Miss Kira Larno-Mitchell, Mr M.Thomas Middleton, Mr Marc Nowell, Miss Veronica Piatigorsky, Hegoumenos Stephen Robson, Father Colin and Mrs Yvonne Ryland, Mr Simon Watson, and, of course, my Mother. Laus Deo!