

*Judgment of the Lords of the Judicial Committee of the Privy Council upon the Appeals of Williams v. the Lord Bishop of Salisbury, and Wilson v. Fendall, from the Court of Arches; delivered 8th February, 1864.*

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Lords present at the Hearing.

THE ARCHBISHOP OF CANTERBURY.

THE LORD CHANCELLOR.

THE ARCHBISHOP OF YORK.

THE BISHOP OF LONDON.

LORD CRANWORTH.

LORD CHELMSFORD.

LORD KINGSDOWN.

THESE Appeals do not give to this Tribunal the power, and therefore it is no part of its duty, to pronounce any opinion on the character, effect, or tendency of the publications known by the name of "Essays and Reviews." Nor are we at liberty to take into consideration, for the purposes of the prosecution, the whole of the Essay of Dr. Williams or of the Essay of Mr. Wilson. A few short extracts only are before us, and our Judgment must by law be confined to the matter which is therein contained. If therefore the Book, or these two Essays, or either of them as a whole, be of a mischievous and baneful tendency, as weakening the foundations of Christian belief, and likely to cause many to offend, they will retain that character, and be liable to that condemnation, notwithstanding this our Judgment.

These prosecutions are in the nature of criminal proceedings, and it is necessary that there should be precision and distinctness in the accusation.

The Articles of Charge must distinctly state the opinions which the Clerk has advisedly maintained, and set forth the passages in which those opinions are stated; and further, the Articles must specify the doctrines of the Church which such opinions or teaching of the Clerk are alleged to contravene, and the particular Articles of Religion or portions of the Formularies which contain such doctrines.

The accuser is, for the purpose of the charge, confined to the passages which are included and set out in the Articles as the matter of the accusation; but it is competent to the accused party to explain from the rest of his work the sense or meaning of any passage or word that is challenged by the accuser.

With respect to the legal tests of doctrine in the Church of England, by the application of which we are to try the soundness or unsoundness of the passages libelled, we agree with the learned Judge in the Court below that the Judgment in the Gorham case is conclusive:—

“This Court has no jurisdiction or authority to settle matters of faith, or to determine what ought in any particular to be the doctrine of the Church of England. Its duty extends only to the consideration of that which is by law established to be the doctrine of the Church of England, upon the true and legal construction of her Articles and Formularies.”

By the rule thus enunciated it is our duty to abide.

Our province is, on the one hand, to ascertain the true construction of those Articles of Religion and Formularies referred to in each charge, according to the legal rules for the interpretation of statutes and written instruments; and, on the other hand, to ascertain the plain grammatical meaning of the passages which are charged as being contrary to or inconsistent with the doctrine of the Church, ascertained in the manner we have described.

It is obvious that there may be matters of doctrine on which the Church has not given any definite rule or standard of faith or opinion—there may be matters of religious belief on which the requisition of the Church may be less than Scripture may seem to warrant—there may be very many matters of religious speculation and inquiry on which the

Church may have refrained from pronouncing any opinion at all.

On matters on which the Church has prescribed no rule, there is so far freedom of opinion that they may be discussed without penal consequences. Nor in a proceeding like the present, are we at liberty to ascribe to the Church any rule or teaching which we do not find expressly and distinctly stated, or which is not plainly involved in or to be collected from that which is written.

With respect to the construction of the passages extracted from the Essays of the accused parties, the meaning to be ascribed to them must be that which the words bear, according to the ordinary grammatical meaning of language.

That only is matter of accusation which is *advisedly* taught or maintained by a Clergyman in opposition to the doctrine of the Church. The writer cannot in a proceeding such as the present be held responsible for more than the conclusions which are directly involved in the assertion he has made.

With these general remarks we proceed to consider in the first place the Charges against Dr. Williams.

All the Charges against Dr. Williams were rejected by the learned Judge in the Court below, or given up at the hearing before us, except the Charges contained in the 7th and 15th Articles.

The 7th Article, as reformed, sets forth certain passages extracted from pages 60 and 61, and from pages 77 and 78, of the volume containing Dr. Williams's Essay, and charges that in the passages so extracted Dr. Williams has advisedly maintained and affirmed that the Bible or Holy Scripture is an expression of devout reason, and the written voice of the congregation—not the Word of God, nor containing any special revelation of His truth or of His dealings with mankind, nor the rule of our faith.

Dr. Williams has nowhere in terms asserted that Holy Scripture is not the Word of God; and the accusation therefore must mean that by calling the Bible "an expression of devout reason, and therefore to be read with reason in freedom," and stating that it is "the written voice of the congregation," Dr. Williams must be taken to affirm that it is not the Word of God.

Before we examine the meaning of these expres-

sions it is right to observe what Dr. Williams has said on the subject of Holy Scripture in the second of the passages included in this Charge. Dr. Williams there refers to the teaching of the Church in her Ordination Service as to the abiding influence of "the Eternal Spirit," and then uses these words, "If such a Spirit did not dwell in the Church the Bible would not be inspired;" and again, "The Sacred Writers acknowledge themselves men of like passions with ourselves, and we are promised illumination from the Spirit that dwelt in them."

Dr. Williams may not unreasonably contend that the just result of these passages would be thus given:—"The Bible was inspired by the Holy Spirit that has ever dwelt and still dwells in the Church, which dwelt also in the Sacred Writers of Holy Scripture, and which will aid and illuminate the minds of those who read Holy Scripture trusting to receive the guidance and assistance of that Spirit."

The words that the Bible is an expression of devout reason, and therefore to be read with reason in freedom, are treated in the charge as equivalent to these words:—"The Bible is the composition or work of devout or pious men and nothing more;" but such a meaning ought not to be ascribed to the words of a writer who, a few lines further on, has plainly affirmed that the Holy Spirit dwelt in the Sacred Writers of the Bible. This context enables us to say that the words "an expression of devout reason, and therefore to be read with reason in freedom," ought not to be taken in the sense ascribed to them by the accusation.

In like manner we deem it unnecessary to put any interpretation on the words "written voice of the Congregation," inasmuch as we are satisfied that whatever may be the meaning of the passages included in this Article, they do not, taken collectively, warrant the charge which has been made that Dr. Williams has maintained the Bible not to be the Word of God, nor the Rule of Faith.

We pass on to the remaining charge against Dr. Williams, which is contained in the 15th Article of Charge. The words of Dr. Williams, which are included in this Charge, are part of a supposed defence of Baron Bunsen against the accusation of not being

a Christian. It would be a severe thing to treat language used by an imaginary advocate as advised speaking or teaching by Dr. Williams. Against such a general charge as that of not being a Christian, topics of defence may be properly urged, although not in conformity with the doctrines of the Church of England.

But, even if Dr. Williams be taken to approve of the arguments which he uses for this supposed defence, it would, we think, be unjust to him to take his words as a full statement of his own belief or teaching on the subject of Justification.

The 11th Article of Religion, which Dr. Williams is accused of contravening, states, "We are accounted righteous before God only for the merits of our Lord and Saviour Jesus Christ, by faith, and not for our own works or deservings." The Article is wholly silent as to the merits of Jesus Christ being transferred to us. It asserts only that we are justified for the merits of our Saviour by faith, and by faith alone. We cannot say therefore that it is penal in a Clergyman to speak of merit by transfer as a fiction, however unseemly that word may be when used in connexion with such a subject.

It is fair, however, to Dr. Williams to observe that in the argument at the Bar he repudiated the interpretation which had been put on these words, that "the doctrine of merit by transfer is a fiction," and he explained fiction as intended by him to describe the phantasy in the mind of an individual that he has received or enjoyed merit by transfer.

Upon the whole we cannot accept the interpretation charged by the Promoter as the true meaning of the passages included in this 15th Article of Charge, nor can we consider those passages as warranting the specific charge, which, in effect, is that Dr. Williams asserts that justification by faith means *only* the peace of mind or sense of Divine approval which comes of trust in a righteous God. This is not the assertion of Dr. Williams.

We are therefore of opinion that the Judgment against Dr. Williams must be reversed.

We proceed to consider the Charges against Mr. Wilson.

These have been reduced to the 8th and 14th

Articles of Charge. The other Articles of Charge were either rejected by the Court below, or have been abandoned at the hearing before this Tribunal.

In the 8th Article of Charge an extract of some length is made from Mr. Wilson's Essay, and the accusation is, that in the passage extracted Mr. Wilson has declared and affirmed *in effect* that the Scriptures of the Old and New Testament were not written under the inspiration of the Holy Spirit, and that they were not necessarily at all, and certainly not in parts, the Word of God; and then reference is made to the 6th and 20th Articles of Religion, to part of the Nicene Creed, and to a passage in the Ordination of Priests in the Book of Common Prayer.

This Charge therefore involves the proposition, "That it is a contradiction of the doctrine laid down in the 6th and 20th Articles of Religion, in the Nicene Creed, and in the Ordination Service of Priests, to affirm that any part of the Canonical Books of the Old or New Testament, upon any subject whatever, however unconnected with religious faith or moral duty, was not written under the inspiration of the Holy Spirit."

The proposition or assertion that every part of the Scriptures was written under the inspiration of the Holy Spirit is not to be found either in the Articles or in any of the Formularies of the Church. But in the 6th Article it is said that Holy Scripture containeth all things necessary to salvation, and the Books of the Old and New Testament are therein termed Canonical. In the 20th Article, the Scriptures are referred to as "God's Word written;" in the Ordination Service, when the Bible is given by the Bishop to the Priest, it is put into his hands with these words, "Take thou authority to preach the Word of God;" and in the Nicene Creed are the words, "the Holy Ghost who spake by the Prophets."

We are confined by the Article of Charge to the consideration of these materials, and the question is, whether in them the Church has affirmed that every part of every Book of Scripture was written under the inspiration of the Holy Spirit, and is the Word of God.

Certainly, this doctrine is not involved in the statement of the 6th Article, that Holy Scripture containeth all things necessary to salvation. But

inasmuch as it doth so from the revelations of the Holy Spirit, the Bible may well be denominated "Holy," and said to be "the Word of God," "God's Word written," or "Holy Writ;" terms which cannot be affirmed to be clearly predicated of every statement and representation contained in every part of the Old and New Testament.

The framers of the Articles have not used the word "inspiration" as applied to the Holy Scriptures; nor have they laid down anything as to the nature, extent, or limits of that operation of the Holy Spirit.

The caution of the framers of our Articles forbids our treating their language as implying more than is expressed; nor are we warranted in ascribing to them conclusions expressed in new forms of words involving minute and subtle matters of controversy.

After an anxious consideration of the subject, we find ourselves unable to say that the passages extracted from Mr. Wilson's Essay, and which form the subject of this Article of Charge, are contradicted by or plainly inconsistent with, the Articles or Formularies to which the Charge refers, and which alone we are at liberty to consider.

We proceed to the remaining Charge against Mr. Wilson, namely, that contained in the 14th Article.

The Charge is, that in the portion of his Essay which is set out in this Article, Mr. Wilson has advisedly declared and affirmed, *in effect*, that after this life and at the end of the existing order of things on this earth there will be no judgment of God, awarding to those men whom He shall then approve everlasting life or eternal happiness, and to those men whom He shall then condemn everlasting death or eternal misery; and this position is affirmed to be contrary to the three Creeds, the Absolution, the Catechism, and the Burial and Communion Services.

In the first place we find nothing in the passages extracted which in any respect questions or denies that at the end of the world there will be a judgment of God awarding to those men whom He shall approve everlasting life or eternal happiness;

but with respect to a judgment of eternal misery, a hope is encouraged by Mr. Wilson that this may not be the purpose of God.

We think that it is not competent to a clergyman of the Church of England to teach or suggest that a hope may be entertained of a state of things contrary to what the Church expressly teaches or declares will be the case; but the Charge is, that Mr. Wilson advisedly declares that after this life there will be no judgment of God awarding either eternal happiness or eternal misery,—an accusation which is not warranted by the passage extracted. Mr. Wilson expresses a hope that at the day of judgment those men who are not admitted to happiness may be so dealt with as that “the perverted may be restored,” and all, “both small and great, may ultimately find a refuge in the bosom of the Universal Parent.” The hope that the punishment of the wicked may not endure to all eternity is certainly not at variance with anything that is found in the Apostles’ Creed, or the Nicene Creed, or in the Absolution, which forms part of the Morning and Evening Prayer, or in the Burial Service. In the Catechism the *child* is taught that in repeating the Lord’s Prayer he prays unto God “that He will keep us from all sin and wickedness, and from our ghostly enemy, and from everlasting death;” but this exposition of the Lord’s Prayer cannot be taken as necessarily declaring anything touching the eternity of punishment after the resurrection.

There remain the Communion Service and the Athanasian Creed. The material passage in the Communion Service is in these words: “O terrible voice of most just judgment which shall be pronounced upon them, when it shall be said unto them, Go, ye cursed, into the fire everlasting which is prepared for the devil and his angels.” In like manner the Athanasian Creed declares that they that have done evil shall go into everlasting fire. Of the meaning of these words “everlasting fire,” no interpretation is given in the Formularies which are referred to in the Charge. Mr. Wilson has urged in his defence that the word “everlasting” in the English translation of the New Testament, and of the Creed of St. Athanasius, must be subject



to the same limited interpretation which some learned men have given to the original words which are translated by the English word "everlasting," and he has also appealed to the liberty of opinion which has always existed without restraint among very eminent English divines upon this subject.

It is material to observe that in the Articles of King Edward VI, framed in 1552, the Forty-second Article was in the following words:—

*"All men shall not bee saved at the length."—Thei also are worthie of condemnation who indevoure at this time to restore the dangerouse opinion, that al menne, be thei never so ungodlie, shall at lengtht bee saved, when thei have suffered paines for their sinnes a certain time appoincted by God's justice."*

This Article was omitted from the Thirty-nine Articles of Religion of the year 1562, and it might be said that the effect of sustaining the Judgment of the Court below on this charge would be to restore the Article so withdrawn.

We are not required, or at liberty, to express any opinion upon the mysterious question of the eternity of final punishment, further than to say that we do not find in the Formularies, to which this Article refers, any such distinct declaration of our Church upon the subject as to require us to condemn as penal the expression of hope by a clergyman, that even the ultimate pardon of the wicked, who are condemned in the day of judgment, may be consistent with the will of Almighty God.

We desire to repeat that the meagre and disjointed extracts which have been allowed to remain in the reformed Articles are alone the subject of our Judgment. On the design and general tendency of the book called "Essays and Reviews," and on the effect or aim of the whole Essay of Dr. Williams, or the whole Essay of Mr. Wilson, we neither can nor do pronounce any opinion. On the short extracts before us, our Judgment is that the Charges are not proved.

Their Lordships, therefore, will humbly recommend to Her Majesty that the sentences be reversed, and the reformed Articles rejected in like manner as the rest of the original Articles were rejected in the Court below, namely, without costs; but

inasmuch as the Appellants have been obliged to come to this Court, their Lordships think it right that they should have the costs of this Appeal.

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I am desired by the Archbishop of Canterbury and the Archbishop of York to state that they do not concur in those parts of this Judgment which relate to the 7th Article of Charge against Dr. Williams, and to the 8th Article of Charge against Mr. Wilson.

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