

## THE BISHOP OF LINCOLN'S TRIAL.

(From the Correspondent of the Church Review.)

On Tuesday, Feb. 4th., in semi-darkness—inside as well as outside the Lambeth Palace—the case against the Bishop of Lincoln came on for hearing on its merits. The Archbishop had on his right the Vicar-General, Sir J. P. Deane, and the Bishops of Hereford (in place of Winchester) and Oxford; and on his left the Bishops of London, Rochester, and Salisbury.

Sir Horace Davey appeared for the promoters, with him being Dr. Tristram and Mr. Dankwertz; and the Bishop was represented by Sir Walter Phillimore, Q.C., Mr. F. H. Jeune, Q.C., and Mr. Kempe, instructed by Messrs. Brooks and Jenkins.

The case having been called on by Sir John Hassard, the registrar, three witnesses were sworn to prove that at St. Peter-le-Gowts at Lincoln, and in the Cathedral, the Bishop had celebrated the Holy Communion standing eastwards, and had performed the manual acts in such a manner that he could not be seen by the people, that being the only one of the ten charges which the Bishop denied. These witnesses deposed to having been sent by the Church Association to watch the Bishop—their names being Walsh, Read, and Tennant, the latter a commercial traveller at Wood Green—and they all swore that no one could have seen what his lordship did, and one even pretended to be in doubt whether the manual acts were performed a gratuitous piece of impudence repudiated by Sir Horace Davey. Sir Walter Phillimore, in cross-examination, elicited from Walsh that he had on several previous occasions been similarly employed by the Church Association. Much amusement was caused by Mr. Walsh when asked as to the "Altar," "Altar rails," &c., deliberately saying "Communion table" and "Communion rails." The proceedings were "a little dool." The Bishop of London was evidently bored and asked one or two questions. "My Lord of Rochester" took notes, and the Bishop of Oxford protected himself from the draught with his capacious scarf. Sir John Hassard, Sir Walter Phillimore, and Mr. Edward Jenkins, occasionally passed beyond the charmed circle, and the last-named was much interested in the artists who were depicting a scene that will become historical. Dr. F. G. Lee watched the proceedings with ill-disguised contempt for the witnesses if not for other more important folk. I was told Canon Carter was present for a short time, but I did not see him. Several ladies graced the scene, and a country Cleric from Cumberland was much awed and astonished at all he saw on his first visit to Lambeth. Mr. Dankwertz was as usual wide awake, and had coached Sir Horace Davey well. That learned counsel said by the *World* to have the enormous fee of 500 guineas, rose soon after twelve, and his speech, which was not concluded when the Court rose at the abnormally early hour of two o'clock, was simply a contention that the Court was bound by the Privy Council judgments, lengthy extracts from which he read at tedious length. He congratulated himself that the question was not one which involved faith or doctrine, with which he might feel himself unable to deal; nor did it turn upon any historical enquiry as to the use of the Anglican or any other Church, but was simply one of rites and ceremonies, declared in the Prayer Book to be in themselves matters of indifference, but as to which it had been the policy of the Church to lay down rules. The matter before the Court was, in fact, one of the construction of words, and his task was rendered easier by the full discussion of the matters before them which had taken place of recent years. He submitted, with great respect, that the decisions

of the Privy Council was binding on the Court, or, if not so held, would be received with the respect due to the eminent persons by whom they were pronounced. The learned counsel cited the case of *Faulkner v. Lichfield*, decided in January, 1845, as bearing out his contention that it was not enough for a ceremony not to be condemned. It must be positively ordered. He then cited the judgments in "*Martin v. Mackonochie*," "*Westerton v. Liddell*," and other cases, with the same purpose. He further maintained that not only by Act of Parliament and statute law, but by the canons which were binding on the clergy, any addition to the rites or ceremonies in the Prayer Book were forbidden. The learned counsel dealt first with the use of lighted candles on the Altar, and next considered the question of the mixed chalice. On both questions he read, at length, a number of judgments of the court in the Ridsdale and other cases, forbidding both usages, though the prohibition of the mixed chalice only applied to its being done during the course of Divine service. He then turned to a different class of charges—namely, as to the position of the Bishop when celebrating the Holy Communion, and his manner of performing the manual acts, so that they could not be seen by the people. Had not persons whose opinions he was bound to respect held that the west side of the Table was the north end, he could not have conceived such an interpretation possible. He dealt with the different directions of the various Prayer Books as to the manual acts, and said that if the Bishop celebrated the Holy Communion, he was bound in good faith to take up such a position that the congregation could see all he did. Would a person wishing others to see him break bread deliberately turn his back on the people, specially considering the ample character of the Bishop's robes? The whole object of the rubric was that the people—not merely the clergy or choir—should see the manual acts. He did not for one moment suggest that the Bishop did not break the bread and take the cup in his hands, but that was not enough. These acts must be seen.

On Wednesday, February 5th, the Court resumed at ten o'clock, being composed as on the previous day. Two or three of the Bishops took notes, and the Bishop of Oxford, in the course of the arguments, sent out for several books of reference. There was a larger attendance than on Tuesday, but at luncheon time most of the ladies disappeared. Canon Rowsell was present for a short time, looking very ill. The Dean of Windsor was in attendance on the Primate, and it was generally understood that he would be the New Bishop Durham, though much annoyance was expressed by his friends at the premature announcement.

Sir Horace Davey, in resuming his speech, said that of the ten charges against the Bishop he had already dealt with (a) Altar lights, (b) the mixed chalice, and (c) standing with his back to the people at the prayer of the consecration. Resuming his argument on the latter point, he contended that the judgment in the Ridsdale case did not weaken his contention as to the illegality of the eastward position. Incidentally, in answer to a question from the Court, he said that it was true the defendant did not appear, but he did not know that the circumstance was any disadvantage to a defendant in the House of Lords and the Privy Council, as the Courts almost constituted themselves defendant's counsel, to say nothing of the judgment of the Court below, which was appealed against, and was an argument in his favor. Having read at great length the judgment of the Privy Council in the Ridsdale case, he maintained that though the celebrant need not stand at the north side of the Altar during the prayer of consecration, he must so stand that the manual acts could be seen. The Bishop, at all events, did not at the parts of the Com-

munion Service, stand at the north end of the altar as directed. The learned counsel then passed on to consider the charge of allowing the *Agnus Dei* to be sung after the prayer of consecration, as to which he quoted the judgment in the *Purchas* case condemning it as illegal.

Mr. F. H. Jeune objected to this construction being put on the judgment.

Sir Horace Davey mentioned that the ceremony in question had been condemned alike by Sir Robert Phillimore and Lord Penzance, as well as by the general rule laid down in "*Westerton v. Liddell*," that ceremonies not specially mentioned were to be considered as abolished. Sir Horace then proceeded to argue that the making of the sign of the cross during the service and the use of ceremonial ablutions were condemned.

Sir Horace said that he had now considered in detail the various charges against the Bishop, all of which he considered he had shown to be illegal; but he should not be fulfilling his duty if he did not put before the Court the great difference between our present office for the Holy Communion, and that in the First Prayer Book of Edward VI. Nearly all the practices complained of were allowed in that Book, and deliberately omitted from our present one. He went at some length into the varying rubrics of the different Prayer Books, and said that the significance of the omission of these ceremonies in the present Prayer Book could not be denied by anyone of common sense. The elaborate preface as to ceremonies in our present Prayer Book was a further argument in his favor; and he moreover contended that while singly some of the practices objected to might be innocent when the whole Altar ritual of the First Prayer Book of Edward VI. was practically restored people might naturally be alarmed.

The Archbishop of Canterbury: Does the second Prayer Book express any opinion on the first?

Sir H. Davey: I think not.

The learned Counsel, in some remarks as to the ablutions being something more than the consumption of the elements prescribed in the rubric, was asked by the Archbishop whether they did not take place after the service was over. The Bishop of London asked if the congregation were in the Church. Sir H. Davey thought that many persons had not left. He pointed out that the Judicial Committee of the Privy Council gave no decisions, but proffered advice to Her Majesty, who issued directions in Council, and he put it to his learned friends how Churchmen could disregard, with any respect to the Sovereign who was so justly revered by all, the judgments given under such solemn sanctions. He hoped that he had not said a word inconsistent with the highest regard for the personal character of the Right Reverend Defendant.

Sir Walter Phillimore, on rising to address the Court for the defence, first read the following statement of the Bishop of Lincoln:—"Your Grace's clemency in allowing me to make an informal statement of my position at an earlier stage of this trial emboldens me to hope that the same indulgence may be granted to me at the present time, when we are entering upon what may be called the merits of the case. I am anxious to state very briefly the principles which have guided my actions and my words in the matter of ceremonial. In regard to the externals of worship generally, I believe with Bishop Butler 'that the form of religion may indeed be where there is little of the thing itself, but the thing itself cannot be preserved amongst mankind without the form.' As to the ceremonial prescribed or allowed within the Church of England, I believe that the rubric immediately preceding the order for Morning Prayer is to be taken in its literal and grammatical sense; and that so taken, it establishes the lawfulness of such or-