

was in some degree extended and modified by the judgment which this Committee was called upon to pronounce, or rather by the decision which they were called upon, after argument, to recommend as fit to be made by an Order of her Majesty in Council.

The Order provided for several matters; as to three of which only it is now alleged that there has been a breach by the respondent of the monition issued in pursuance of the Order. Those three matters are:—First, that he continues to elevate the cup and paten during the administration of the Holy Communion; secondly, that he continues to kneel or prostrate himself before the consecrated elements during the prayer of consecration; and thirdly, that he continues to use lighted candles on the communion-table at times when such lighted candles are not wanted for the purpose of giving light.

In order to see how far that which is complained of has been a breach of the monition, we must of course in the first instance look to the monition itself. The monition having recited that the respondent was pronounced to have offended against the statutes, laws, constitutions, and canons of the Church of England, by having knelt or prostrated himself before the consecrated elements during the prayer of consecration, and also by having within the said church elevated the cup and paten during the Holy Communion, and also by having used lighted candles on the communion-table, during the celebration of the Holy Communion, at times when such lighted candles were not wanted for the purpose of light, proceeds to direct him to abstain for the future from the elevation of the cup and paten during the administration of the Holy Communion, and from kneeling or prostrating himself before the elements during the prayer of consecration, and also from using, in the said church, lighted candles on the communion-table during the celebration of the Holy Communion, at times when such candles are not wanted for the purpose of giving light.

The evidence which is before their Lordships is addressed to these three several heads. We will deal with them in a different order from that in which they appear in the prayer of the application, and take the use of lighted candles on the communion-table at times when such candles are not wanted for the purpose of giving light, in the first instance, because with reference to that part of the case it appears to their Lordships that the affidavits do not make out the offence charged. In the first place, it appears that the offence charged is not in strict conformity with the monition, because the monition is itself confined to using those candles on the communion-table *during the celebration of the Holy Communion*; and the charge which is made in the motion now before this Committee is, that they were used on the communion-table at times when they were not wanted for the purpose of giving light, leaving out the words "*during the time of Holy Communion.*"

Of course it is not competent for their Lordships to proceed beyond the actual monition which has been served upon the respondent. It is that which he has said to have disobeyed, and it is to disobedience of the monition only that their Lordships can address themselves.

It is plain upon the affidavits that the candles

have not been lighted during the Holy Communion, for the course taken by the respondent has been this, that the candles are lighted as he says they always have been, and were at the time of the proceedings herein being taken, and are kept burning up to the period of the Holy Communion, and then immediately before the commencement of the Holy Communion they are extinguished.

There is no doubt, therefore, in this case, of a literal compliance with the terms of the monition. The candles are not lighted during the period of the Holy Communion. They are lighted, indeed, when there is no necessity for their being lighted for the purpose of giving light, but they are extinguished before the Holy Communion; therefore the compliance with the terms of the monition has been literal and complete, and not, in that sense, evasive, for the respondent was limited to a particular time, in reference to the candles; and whatever one may feel as to the course of the reverend respondent, looking to the spirit of the monition, of course the monition could not go beyond the matters that were charged: the offence charged was one which he has abstained from; and in this respect, therefore, their Lordships are clear that the prayer of this motion cannot be complied with.

The next charge is that he continues to elevate the cup and paten during the administration of the Holy Communion; and, with reference to this matter, their Lordships feel that the case is placed in a position that is eminently unsatisfactory. On a former occasion the sentence of the judge in the court below was approved with reference to this particular subject-matter; therefore, that sentence is the sentence to which recourse must be had by their Lordships when interpreting the monition, which cannot, of course, proceed further than the sentence itself. The sentence in the court below was thus worded: the respondent was ordered "to abstain for the future from the elevation of the cup and paten during the ministration of the Holy Communion, and also from the use of incense and from the mixing of water with the wine during the administration of the Holy Communion, as pleaded in the articles."

Their Lordships think that the words "as pleaded in the articles" must be applied to those several offences which were charged in the passage just quoted—namely, the elevation of the cup and paten, also the use of incense, and the mixing of water with wine; and their Lordships are thrown back, therefore to the articles to see what it was that was there pleaded, and they find this state of circumstances. Originally the third article pleaded that there was an elevation of the cup and paten beyond what was necessary for the purpose of complying with the terms of the rubric, which directs that at a particular part of the prayer of consecration, when the sacred elements are dealt with, the paten shall be taken into the hands, and at another part that the cup shall be taken into the hand or hands (for there is some little variation in the two parts of the rubric itself) of the officiating minister. That would have been, as it appears to all their Lordships, a charge which would have raised a distinct and definite issue, whether the elevation of the paten or the elevation of the cup were or were not a *bonâ fide* raising it so far only as is necessary for