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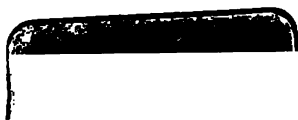
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Ecclesiastical Court,

TRIAL

OF

REV. O. S. PRESCOTT,

PRESBYTER OF THE DIOCESE OF MASSACHUSETTS,

IN

CHARGES OF HERESY,

&c.

NEW-YORK

JOHN R. MCGOWN, PRINTER, 57 ANN-STREET.

1861.

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Prof. S. E. Morrison



## **Ecclesiastical Court.**

### **TRIAL OF THE REV. OLIVER S. PRESCOTT.**

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The Standing Committee of the Diocese of Massachusetts made presentment to the Bishop, of the Rev. Oliver S. Prescott, for heresy, and for performing Divine service in a manner not sanctioned by the law and usages of the Church. Upon this presentment, the Bishop, in accordance with the Canons of the Diocese, nominated nine Presbyters, from whom Mr. Prescott selected five, who were constituted the Court of Triers.

This Court assembled in the vestry of Trinity Church, Boston, on Tuesday, Nov. 26th, at 10 A. M. The following are the Presbyters who composed it. Rev. Edward Ballard, of St. Michael's, Marblehead; Rev. Joseph H. Clinch, of St. Matthew's, Boston; Rev. Charles Mason, of Grace Church, Boston; Rev. Edmund F. Slafter, of St.

John's, Roxbury; Rev. Thomas R. Lambert, of the U. S. Navy.

The Rev. Mr. Ballard said prayers, with appropriate collects. The letter of appointment from the Bishop was then read, Rev. Mr. Ballard was chosen President, and the Rev. Patrick H. Greenleaf, of St. John's, Charlestown, appointed Recorder, and the Court announced itself ready to proceed with business.

The Rev. George M. Randall, President of the Standing Committee, appeared for the prosecution. The Rev. Mr. Prescott appeared, in person, with Richard H. Dana, Jr., Esq., and Peter Oliver, Esq., as his proctors and advocates.

Mr. Randall moved for a postponement of the trial to Monday, Dec. 2d, on the ground of the absence of certain members of the Standing Committee. This was objected to by Mr. Dana, who proposed that the Presentment and the Exceptions be first heard and argued. The Court refused the motion of Mr. Randall. The following Presentment was then read by Mr. Randall:—

**PRESENTMENT.**

To the Right Rev. Manton Eastburn, D.D., Bishop of the Protestant Episcopal Church in the Diocese of Massachusetts:—

The Standing Committee of the Diocese of Massachusetts do hereby present the Rev. Oliver S. Prescott, Presbyter of this Diocese, as having

been guilty of entertaining and believing certain doctrines, which are not held, nor allowed to be held, by the Protestant Episcopal Church in the United States, but which are condemned by the Standards of said Church, as wrong, unsound, and heretical, and that he, the said Rev. Oliver S. Prescott, Presbyter, has, moreover, promulgated, taught, and defended said doctrines; to the detriment of religion, the scandal of the Church, and the great injury of the cause of Christ.

That he has further adopted and pursued, and encouraged others to adopt and pursue, certain forms and ceremonies, which the church does not allow, and which are contrary to her teachings and Standards, (and which are in opposition to the general usage and immemorial customs of the church, and in violation of her common law,) to the prejudice of the gospel, and the salvation of souls.

The Standing Committee of the Diocese of Massachusetts, in conformity with Canon 1, of 1846, of the Protestant Episcopal Church in said Diocese, do present the said Oliver S. Prescott, Presbyter, for trial, (according to the provisions of the canons of the Church, made and provided, for the trial of Clergymen, accused by public rumor or otherwise, of offences of which they may be tried,) under and for the following charges and specifications.

**Charge First.**—That the Rev. Oliver S. Prescott has taught that the Virgin Mary, the mother of our Saviour, is an object of worship.

**Specification 1st.** He has held and taught the immaculate nature and character of the Virgin Mary.

2. He has taught that she was without sin.

3. He has taught that prayers may be, or should be, addressed to her.

4. He has taught that she may be, or should be, regarded as an intercessor.

5. He has taught that it is right or proper, or allowable, for Christians to use the "Hail Mary" in their devotions.

6. He has held, or acknowledged his belief in, or consent to, the doctrines which are contained in the above five specifications.

**Charge Second.**—That the Rev. Oliver S. Prescott has held and taught the doctrine of Transubstantiation.

**Specification 1st.** He has, in private conversations with individuals, acknowledged his belief in this doctrine.

2. He has in private conversations defended this doctrine, by employing and expressing divers arguments in its favor.

3. He has, at sundry times, employed language in respect to the nature, necessity, and effects of the Sacrament of the Lord's Supper, the natural

import of which was calculated to convey the impression, that he held and defended the said doctrine of Transubstantiation; and he did not so qualify or explain said language as to guard against and prevent any such natural inference, of his belief in said doctrine, as drawn from the terms and expressions employed by him in respect to the Sacrament of the Lord's Supper.

Charge Third.—That the said Rev. Oliver S. Prescott has held and taught that Auricular Confession to a priest, on the part of the members of the Church, is proper, and allowable, and profitable.

Specification 1st. He has taught and defended this doctrine and practice at divers times.

2. He has urged Auricular Confession as a duty.

3. He has encouraged Auricular Confession as a privilege and benefit.

4. He has allowed members of the Church to come to him, and make confessions of their sins, in manner and form not allowed or sanctioned by the Church.

5. He has acknowledged the substance of the above four preceding specifications in private conversations.

Charge Fourth.—That the said Rev. Oliver S. Prescott has held and taught that Priestly Absolution, in connection with Auricular Confession, is allowable, and desirable, and profitable.

Specification 1st. He has heard private confessions of sins from sundry persons, and has pronounced absolutions in behalf of such persons, on occasions and under circumstances not contemplated by the Church, and in violation of the principles of the Church, as set forth in her Standards, and contrary to her established customs and usages.

2. He has acknowledged his belief in the doctrine of Priestly Absolution, in connection with Auricular Confession.

3. He has acknowledged the necessity, or the propriety, or profit, of private, priestly absolution.

4. He has defended this doctrine.

5. He has inculcated this doctrine.

6. He has encouraged or permitted certain persons to come to him to receive such private absolution.

7. He has pronounced such absolution in contrariety to the doctrines, standards, and usages of the church.

Charge Fifth.—That the said Rev. Oliver S. Prescott has adopted and pursued certain customs and practices which are repugnant to the teachings of the church, contrary to the spirit and meaning of her Standards, and against the common order and established usages of the Church, and a violation of her common law.

Specification 1. He holds that the practice of Auricular Confession is right.

2. He has defended this practice as profitable.

3. He has encouraged others to adopt it and practice it, as a religious duty.

4. He has himself been in the habit of making such confessions to a priest.

5. He has practiced such confessions to a Presbyter, who had become notorious for his Romanizing tendencies, and who has subsequently apostatized from the Church—renounced his ordination vows, and connected himself with the Romish communion.

\* 6. He has been in the habit, in performing divine service, of turning his back to the people, while reading the Psalter,—offering up prayers,—and reciting the creed,—contrary to the practice and custom of the Church in this Diocese since its first organization.

7. He has practiced these violations of the common law of the church against the well-known and officially declared admonitions and counsels of the Bishop of the Diocese.

8. In making the usual ascription to the Holy Trinity, at the close of sermons, he has turned his back to the people, and his face to the Lord's Table as to the most holy place.

9. He has paid, by divers turnings, or bowings, or genuflections, that reverence to the Lord's Table, which is indicative of a belief in the doctrine that the real body and blood of Christ are really

\* Subsequently waved by the Prosecutors.

and truly offered up thereupon, in accordance with the doctrine of Transubstantiation.

\* 10. He has allowed, or approved, or permitted, in celebrating public service, at morning and evening prayer, portions of the Psalter to be sung, in place of the psalms and hymns in metre, which the Church has set forth for that purpose.

11. He practices these ceremonies which are contrary to the customs and usages of the Church in this Diocese, and the customs and usages of the Protestant Episcopal Church in the United States, and which are wrong in themselves, expressive of error, and a hindrance to true religion.

Charge Sixth.—That the said Rev. Oliver S. Prescott has held, taught, encouraged, practiced, or defended, some or all of the false doctrines, heresies, and wrong and unauthorized customs, forms, and ceremonies, which are contrary to the fixed standards, established usages, and common law of the Church, as embraced in the before-written charges and specifications.

The Standing Committee aforesaid do further present that the said Rev Oliver S. Prescott hath been guilty of the above and afore-written charges and specifications within the year last past.

And they do ask that the Right Reverend Bishop of the Diocese do institute proceedings, in accordance with the canons made and provided for the determining of such cases, that the honor

\* Subsequently waved by the Prosecutors.



of pure religion may be vindicated, and that justice may be done both to the Church and to the accused.

By order and in behalf of the Standing Committee of the Diocese of Massachusetts, duly convened at Boston on this seventeenth day of July, in the year of our Lord Eighteen Hundred and Fifty.

GEORGE M. RANDALL,  
President of the Standing Committee, of the Diocese of Massachusetts.

WM. RAYMOND LEE, Sec.

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The Counsel for Mr. Prescott then introduced and read the following Exceptions:—

EXCEPTIONS.

Exceptions by the Rev. Oliver S. Prescott to the Presentment made to the Bishop of the Diocese of Massachusetts, against him, by the Standing Committee of said Diocese, to be heard and tried before a Court of Presbyters of said Diocese, assembled in Boston on the 26th day of November, in the year of our Lord, 1850.

The said Rev. O. S. Prescott comes and prays the judgment of the Reverend Court, that he ought not to be obliged to answer to said presentment, but that the same be declared null and void. And he also prays the judgment of the Reverend Court as to each of the charges and specifications there-

under in said presentment, that the same be stricken out from the presentment—and therefore he makes the following exceptions.

To the Presentment:—1. Because the said presentment does not recite that information of his offence had been first given in writing to the Standing Committee, by a member of this Church.

2. Because it does not set forth the said information.

3. Because it does not set forth that upon the said information having been given to said Committee, they proceeded to a preliminary consideration of the case before making said presentment, and then saw fit, in their discretion, to make said presentment.

4. Because the said presentment and preliminary consideration thereto (if any such consideration was had) ought to be made by the clerical members of the Standing Committee; whereas the same purport to have been made (if said consideration was had at all) by the whole Standing Committee, a majority of whose quorum may be laymen.

5. Because it does not, in any of the charges and specifications thereunder, specify the offences of which the accused is charged with reasonable certainty as to time, or place, or circumstances.

6. Because it does not allege that the offences specified therein, were committed by said Prescott within this Diocese.

7. Because it does not allege that at the time of committing the offences named therein, the said Prescott was a minister of the Protestant Episcopal Church of the United States.

8. Because it is not signed by all the members, or a majority of the members of the Standing Committee.

To the several charges and specifications, in addition to the fifth general exceptive allegations before pleaded, which he hereby applies to each of the charges and specifications in the presentment, he more particularly excepts, as follows :

To Charge First, and the several specifications thereunder—

Specification 4. Because it is in the disjunctive ; and because the nature of the offence is not set forth with sufficient certainty.

6. Because it is multifarious, and because it is not a specification ; and because it does not set forth an offence over which this Court has jurisdiction.

To Charge Second, and the several specifications thereunder—

The Charge. Because the doctrine therein referred to, is not set forth with sufficient certainty.

Specification 1. Because it does not set forth an offence over which this Court has jurisdiction.

2. For the same reason as the preceding.

3. Because it does not appear whether or not

he is therein charged with teaching the doctrines set forth in the charge—also because it does not set forth the language which he is therein charged to have employed.

To Charge Third, and the several specifications thereunder—

The Charge. Because it does not set forth an offence over which this Court has jurisdiction.

Specification 1. Because it is not a specification.

4. Because it does not set forth in what manner and form not allowed or sanctioned by the Church, he has done the acts therein named.

5. Because it is not a specification.

To Charge Fourth, and the several specifications thereunder.—

The Charge. Because it does not set forth an offence over which this Court has jurisdiction, and because it does not set forth the nature of the doctrines alleged to be held and taught with sufficient certainty.

Specification 1. Because it does not specify the occasions and circumstances therein referred to—and because it does not specify how the acts therein named, undersaid occasions and circumstances, are not contemplated by the Church, and are in violation of the principles of the Church, and what principles thereof, and contrary to her established customs and usages.

2. Because it is not a specification.

3. Because it is in the disjunctive.

4. Because it is not a specification, and because it does not set forth an offence over which this Court has jurisdiction, and because it is vague and ambiguous.

7. Because it does not set forth the manner or circumstances of the act therein named, which render it contrary to the doctrines, standards, and usages of the Church.

To Charge Fifth, and the several specifications thereunder—

The Charge. Because it does not specify the customs and practices therein referred to, with sufficient certainty.

Specification 1. Because it is not a specification under the above charge of the adopting and pursuing of customs and practices, and because it does not set forth an offence over which this Court has jurisdiction.

2. For the same reason.

3. For the same reason.

4. Because it does not set forth an offence over which this Court has jurisdiction, and because it is vague and ambiguous.

5. For the same reason, and because it sets forth no offence different from that set forth in the preceding specification. And for matter bad for irrelevancy and argumentativeness.

6. Because it does not set forth offences over which this court has jurisdiction.

7. For the same reason as the preceding, and because it does not specify what violations he is charged with.

8. Because it does not set forth an offence over which this court has jurisdiction.

9. Because it does not set forth the nature of the act or acts charged to be done, with sufficient certainty.

10. For the same reason as the preceding, and because it does not set forth an offence over which this court has jurisdiction.

11. Because it is not a specification, and because it does not set forth the nature and circumstances of the acts charged to be done with sufficient certainty.

To charge 6th. The Charge—Because it is in the disjunctive. Because it is multifarious. And because it does not specify the nature, or character, or circumstances of the offences there charged.

And upon the above Exceptions he prays the judgment of the Reverend Court. OLIVER S. PRESCOTT.  
(Signed.) RICHARD H. DANA, JR.,

Proctor for Respondent.

Mr. Oliver stated to the Court that he had some doubt as to his qualifications to appear as counsel, under the canon of 1846, and submitted a

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written statement of his case. The Court, not thinking him strictly qualified, he withdrew from the cause. (The canon requires the advocate or proctor to have been "a communicant of some parish in the Diocese, at least two years before the time of trial.")

The Court then adjourned to Wednesday, the 27th, at 10 A. M.

#### SECOND DAY.

Wednesday, Nov. 27th.

The Court opened with the appropriate prayers and collects said by the President.

Mr. Randall gave notice that the Standing Committee waived the 6th, 7th, 8th, 9th, and 10th Specifications under Charge Fifth. R. H. Dana, Jr., Esq. then addressed the Court in behalf of the Exceptions.

#### *Mr. Dana's Argument.*

Mr. Dana first addressed to the Court some remarks on the importance of a strict adherence to **FORMS OF LAW**, in all judicial proceedings, but especially where one man stands alone, accused by the authorities, civil or ecclesiastical, of offences involving life, liberty, property or reputation. These forms were not the contrivances of any man or any set of men, or the results of any mere theories; but distilled from the experiences of Courts in all countries, in all ages,—the experimental wisdom of centuries. No court could be wise enough to do

without them. In proceedings penal or criminal in their nature, the rules as to the allegations to be made by the prosecuting party, would be found to be substantially the same, and grounded on the same reasons, whether at the Common Law, in Chancery, in Admiralty, in the Roman or in the Canon law.

The chief reasons for certainty in the allegations are generally considered to be these. 1. That the Court may see whether it has jurisdiction. 2. That the Court may see whether the acts charged constitute the alleged offence. 3. That the defendant may be able to admit or deny each charge, without danger of mistake or misconception. 4. That he may secure evidence and be prepared on points of law. 5. That he may be able to plead a former acquittal or satisfaction for the same charge. 6. That he may plead this record in future cases. 7. That the Court may know that the acts proved are the acts charged. 8. That the Court may know what sentence to pronounce. 9. That posterity may know what law is to be derived from the record.

The Court will perceive that the exceptions in this case are of two kinds. The eight general exceptions apply to the entire presentment, and, if sustained, will annul it. He would, therefore, confine his argument to these, reserving the right to argue the special exceptions to the different charges



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and specifications, in case the general exceptions should not be sustained.

The fifth exception is the one chiefly relied upon. This alleges a want of reasonable certainty in the allegations, as to time, place, and circumstances. There is no allegation of time, except that it is alleged generally that all the said offences were committed within the year last past. This gives the reverend defendant one chance in three hundred and sixty-five of guessing right, as to the time indicated in each case. He was happy to say that the defendant had, during the year past, been a constant laborer, performing service nearly every day, preaching on Sundays and other Holy-days, and giving instruction in Sunday Schools and catechetical classes, and in private times innumerable. The presentment contains no allegation whatever of place, and the acts may have been done in any part of the known world. How is it possible for the defendant to know which of his services, his teachings, his private instructions, his accidental conversations, are intended? How could he summon witnesses? Counsel found it impossible to make preparations on these charges. It was at their request that the reverend defendant had put in these exceptions. He desired no delay, or formal objections, but his counsel persuaded him that he owed it to them, and to his reverend brethren,

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and to the cause of law and liberty in the Church to make the exceptions.

Mr. Dana then cited authorities from the various branches of law, as to the requisite certainty in allegations. In Ecclesiastical law, the *Canon of Massachusetts*, 1846, § 1; *Hoffman's Law of the Church*, 401; 3 *Burns' Ecclesiastical Law*, 264, 283; 1 *Haggard's Rep.* 43, *Oliver v. Hobart*; 3 *Do.* 25, *Bennet v. Boucher*; 1 *Curties' R.* 484, *Taylor v. Morley*. From the Common Law. 1 *Chitty's Cr. Law*, 172, 196, 211, 227-231; *Archbold's Cr. Pleading*, 43, 46, 48; 4 *Blackstone's Comm.* 306; *Stephens' Crim. Law*, 216, *Stephens' Pleadings*, 370, *Chitty's do.* 434. From Chancery Law, *Story's Equity Pleadings*, 19, 24, 207; from Admiralty Law, *Dunlap's Adm. Prac.* 116.

Beside the want of allegations of time and place, no circumstances whatever are set forth, to aid in identifying the transactions. The only approach to a circumstance is in the 5th specification under the 5th charge, where the defendant is charged with making confession to a presbyter "who had become notorious for his Romanizing tendencies,"—a specification the exactness of which depended on the theological opinions or fears of the prosecutors. The Standing Committee must know the material facts and circumstances before they are warranted in making a presentment. The only

question, therefore, is, how much they shall be permitted to withhold.

If the Court will examine the special exceptions, they will see that the nature and character of the offences charged are not specified with ordinary exactness. The defendant may understand them in one sense when he pleads, the prosecutors may intend a different thing, the Court may understand them in still a different manner, and the Bishop, in revising the judgment, may attach to them still a fourth signification. There may be no *consensus animorum* between any two of the four parties to the proceeding. Some of the opinions or acts charged are so indefinitely expressed, that the defendant cannot, in conscience, plead to them either affirmatively or negatively, nor can the Court say, on the face of the record, whether or no, if proved, they are heretical or uncanonical. It is an established rule in pleading that "the facts and circumstances that constitute the offence should be set forth.—A statement of a legal result is bad;" yet in most instances, this presentment gives only the legal result, without specifying the acts done or words uttered. It is for the Court to determine the legal result, upon the allegation and proof of the facts. (*Chitty's Crim. Law* 227–231.)

Since the waiver of the specifications under the fifth charge, the chief allegations against the defendant are for words spoken. It is a rule in all

pleadings, civil and criminal, that where word spoken or written are the *gist* of the claim or charge, they should be set forth. The best illustrations are from cases of actions or indictments for libel, slander, or treasonable or scandalous words. (Archbold's Cr. Plead. 48, 43; Stephen's Pl. 370; Chitty's Pl. 434.)

The other general exceptions relate to matters of form, and are of no consequence whatever to this respondent, personally. But, on general principles, and as precedents, they deserve the attention of the court. This, too, is the first trial under the canon in this Diocese, and the Court would do well to establish the precedents on the points. He then proceeded to argue the other exceptions.

The first three exceptions depend upon the canon of 1846, which is in these words :

"The mode of presentment and trial of a minister for any offence for which, &c. . . ., shall be as follows :

"Information of his offence shall first be given in writing to the Standing Committee, which information any member of this Church is hereby declared competent to give. The Standing Committee shall thereupon proceed to a preliminary consideration of the case; and in their discretion, if they see fit, may make a formal presentment of the offence to the Bishop."

The canon makes the written information by a

member of this Church, an essential part of the proceeding. Without this, the Standing Committee cannot proceed under this canon. This Court is not only a court of special and limited jurisdiction, but of special creation. It derives its life and jurisdiction solely from the canon. It is a rule of law that before tribunals of limited jurisdiction, and *a fortiori* of special creation, all the acts and proceedings necessary for its jurisdiction or establishment should be specially alleged, that both the Court may have assurance of its powers, and the defendant may, if he pleases, traverse any of the essential requisites. (Conckling's Treatise 222, 8 Pick. Rep. 112 *Brown v. Keen*, 12 Pick. R. 572 *Betts v. Bayley*, 3 Cowen and Hill's Phillips on Evidence, 1013.) Such is the rule in the United States' Courts, and in cases of referees and arbitrators, and in proceedings in insolvency or bankruptcy. The Bishop, in the first instance, and afterwards the Court, should know by the record, that the necessary preliminary steps have been taken, that there has been a responsible informer, and a deliberation of the Standing Committee thereupon.

On the fourth exception, Mr. Dana said he had much doubt. The general canon 27, of 1832, § 2, seems intended to guard a clergyman against being presented for heresy by any but clerical authorities. As the Standing Committee of this Diocese is con-

stituted, if one clerical member be absent from a meeting, the lay members are a majority of a quorum; and thus a clergyman may be presented for heresy without the concurrence of one of his peers. Yet, the general canon, he confessed, might be only directory, imposing a duty, and not creating a condition precedent. And it might be said that, in this case, the Bishop had complied with the canon of 1832, by sanctioning the presentment and constituting the Court.

As to the sixth exception, the Court can examine the general canons on the subject of offences committed in other dioceses, and give them such construction as they think proper. It is not alleged that the defendant was canonically resident in the diocese the year past. (Canon 40 of 1832, 5 of 1835, and Hoffman 338.)

The seventh exception is fatal. The offences charged, are all official misdemeanors, and are not triable except when committed by a clergyman of our Church. The official character of the defendant, being an essential ingredient, should be alleged.

To the eighth exception he had no authorities, but left the Court to establish a precedent, either way, as it should see fit.

Mr. Dana closed by repeating that the reverend defendant did not put in these exceptions for delay, or to escape trial, or from dissatisfaction with his tribunal. In proof of this, since annulling the

presentment dissolved the Court, he herewith offered to the Standing Committee to agree, in case the exceptions were sustained, that they might make an entire new presentment, in the form of an amendment, and to proceed to trial thereupon, with reasonable opportunity for preparation on each side.

*Mr. Randall's Argument.*

Mr. Randall admitted that the presentment was not as specific as the authorities cited on the other side seemed to require ; but he contended that the same strictness was not possible in charges of this nature, consisting mainly of holding heresies, admitted at various times, to various persons. He contended that the Court would be governed by the law of this diocese alone, and said that the authorities cited were disgraceful instances of quibbling and technicality which this Court ought not to follow. The only object of the Committee was to get at the truth. In the present case, the charge was founded only upon "public rumor," corroborated by declarations or admissions of the defendant ; and greater exactness could not be had.

[Mr. Dana here inquired if the Committee expected to try the defendant for holding heretical opinions, without evidence of official teachings and inculcatings of the same. Mr. Randall was understood to say that they did.]

Mr. Randall cited no authorities on any of the

points. To the first three exceptions, he said that the information and preliminary proceedings thereupon were no part of the presentment, and need not, and should not properly be incorporated therein. The Bishop and Court, if they doubted, could satisfy themselves, otherwise, that the preliminary steps were taken.

To the fourth exception, he said that the canon of this diocese requires the whole Standing Committee to act, and if only the clerical members acted, the presentment would have been uncanonical. On the sixth exception, he argued that if Mr. Prescott was canonically resident here when presented, it was of no consequence in what diocese he committed the offences, or was canonically resident in when he committed them. To the seventh and eighth exceptions he made no reply,

The Court then adjourned to Friday, the 29th, at half-past 10, A. M.

#### THIRD DAY.

Friday, Nov. 29th.

The Court opened with the usual religious services.

The Rev. Dr. Vinton, one of the Standing Committee, appeared in behalf of the presentment, jointly with Mr. Randall.

The Court asked the members of the Standing Committee present if they wished to be heard fur-



ther in behalf of the presentment. They replied that they did not. The Court then said that they had considered the exceptions and should sustain them, but before entering their judgment, gave the Standing Committee opportunity to accept the offer of the respondent's counsel, to make a new presentment in the form of an amendment.

Mr. Randall refused the offer, and rising in his seat, declared that the Court was dissolved—that the sustaining of the exceptions dissolved the Court.

The Court called to order, and reminded the reverend counsel that they had only given an opinion, and not recorded a judgment.

Dr. Vinton then addressed the Court. He regretted his necessary absence heretofore, and contended that the exceptions were frivolous and technical; that the Committee could not specify more accurately, as the main charge was of *holding* heretical opinions—a long-continued holding.

The Rev. Mr. Mason (of the Court) replied that if there were no acts that could be alleged, there were none to be proved. Dr. Vinton replied that they could be proved by circumstantial evidence, if by no other.

The Court suggested that the offer should not be refused without a meeting of the entire Committee. But the members of the Committee present took the responsibility of acting.

Dr. Vinton objected that the Court had not pronounced a definite opinion upon the several exceptions, so as to give light to the Committee. The Court replied that if the Committee would accept the offer to amend, the Court would give a detailed opinion; but if they did not intend to proceed, the Court did not feel obliged to instruct them as to a new presentment. After further consideration, however, the Court said that they unanimously sustained the fifth exception. As this annulled the entire presentment, they gave no opinion on the other exceptions,

The Court then passed judgment, annulling the presentment. At the request of the respondent's counsel, the offer to allow an amendment was entered on the record, and at the request of the Standing Committee, their refusal was recorded to have been on grounds of doubt as to their canonical authority to vary the presentment.

Mr. Dana then asked leave of the Court for the Respondent to read a short statement of his relation to the Church and to the charges in this presentment. As there was to be no trial on the merits, and might never be, it was an act of courtesy not unusual in Courts Martial and Ecclesiastical, though not to be required of right. The motion was opposed by the Standing Committee, and refused by the Court, on the ground that it was no part of their judicial proceedings.

The Court then took a private session, for the purpose of making up their record for transmission to the Bishop, and adjourned *sine die*.

The following is the statement prepared by Mr. Prescott, and transmitted by him to the Bishop, to be placed in the files of the Diocese after the Record of the Court :

IN THE NAME OF GOD, AMEN!

I, Oliver S. Prescott, Presbyter of the Diocese of Massachusetts, now under presentment by the Standing Committee of said Diocese, for trial, for violation by word and deed of my Ordination vows, do solemnly declare, that I "willingly subscribe to the word of God, attested in the everlasting Scriptures—to all the Primitive Creeds—to the Four General Councils—and to the common judgment of the Fathers of six hundred years after Christ;" I own myself bound by the following declaration: "I do believe the holy Scriptures of the Old and New Testament to be the word of God, and to contain all things necessary to salvation; and I do solemnly engage to conform to the Doctrine and Worship of the Protestant Episcopal Church in the United States;" I acknowledge my duty of obedience to the Right Reverend Fathers, the Bishops of said Church, as the supreme authority therein, and the sole representative to me of the Catholic Church of God. To her have I devoted myself, body, soul and spirit, and am still devoted. In her

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 I am willing to live, in her I desire to die, with no other preparation than worthily receiving the Body and Blood of Christ which she dispenses. Haply I may err in trifles, but an heretic or an apostate, by the grace of God, I can and will never be.

If one year of quietness and peace in believing, and four of preparation for the Sacred Priesthood, to which I believe myself "inwardly moved by the Holy Ghost," and "truly called, according to the will of our Lord Jesus Christ, and the Canons of this Church," and if three years of active service in this office, be not a sufficient refutation of the charge that my life during that time has been a deception and a lie, studiously followed before the face of God and man without an object or effect, unless it be the service of the father of lies, I know not how one can be furnished by a mere declaration, or even a solemn oath. Yet I would give my asseveration, and invoke the sacred name of God, and call my life for the eight years last past to witness to the truth of this declaration.

I pray the Reverend Court that this may be entered on the minutes of their proceedings, and preserved among the records of the Diocese.

OLIVER S. PRESCOTT,

Presbyter of the Diocese of Massachusetts.  
*Trinity Church, Boston, Nov. 29, 1859.*

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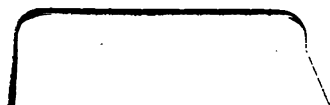
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