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AN ECCLESIASTICAL TRIAL IN 1664.

In these days of ecclesiastical contention the following account of the "Trial of Mr. Benjamin Keach at the Assizes held at Ailsbury [*sic*] in Buckinghamshire, Oct. 8 and 9, 1664," will be perused with interest. For this specimen of judicial procedure in such cases 200 years ago, we (*Northampton Herald*) are indebted to a Collection of State Trials published by R. Snagg, London, M,DCC,LXXV., and kindly lent us by a townsman.

THE TRIAL.

Benjamin Keach, of Winslow, in the county of Bucks, having wrote a little book entitled "The Child's Instructor : or a New and Easy Primmer [*sic*] : In which were contained several things contrary to the doctrine and ceremonies of the Church of England; as, that infants ought not to be baptised; that laymen may preach the Gospel; that Christ shall reign personally upon the earth in the latter day, &c." He had no sooner got it printed and some of them sent down to him, but one Mr. Strafford [=Stafford], a Justice of the Peace for that county, received information of it. Whereupon, taking a constable with him, he went himself in quest of the said books; and coming to the house of Mr. Keach, found and seized several of them, bound Mr. Keach over to answer for it at the next assizes in a recognisance of an hundred pounds, and two sureties with him in fifty pounds each.

The next assize holden for the said county was at Ailsbury, on the 8th and 9th day of October, 1664, Lord Chief Justice Hyde being Judge. On the first of which days, in the forenoon, Mr. Keach was called upon, who answering to his name was brought to the bar and examined as follows:

Judge : Did you write this book? Holding out one of the Primers in his hand.

Keach : I writ most of it.

Judge : What have you to do to take other men's trades out of their hands? I believe you can preach as well as write books. Thus it is to let you, and such as you are, have the Scriptures to wrest to your own destruction. You have made in your book a new creed; I have seen three creeds before; but I never saw a fourth till you made one.

Keach : I have not made a creed but a confession of the Christian faith.

Judge : Well, that is a creed, then.

Keach : Your Lordship said you had never seen but three creeds; but thousands of Christians have made a confession of their faith.

After this, the Judge observed to the Court several things which were written in the said book, concerning baptism and the ministers of the gospel, which were contrary to the Liturgy of the Church of England, and so a breach of the Act of Uniformity.

Keach : My Lord, as to those things –

Judge : You shall not preach here, nor give the reasons of your damnable doctrine to deduce and infect his Majesty's subjects. These are not things for such as you are to meddle with, and to pretend to write books of Divinity : but I will try you for it before I sleep.

After this he gave directions to the Clerk to draw up the indictment; and the witnesses were sworn and ordered to stand by the Clerk till the indictment was finished, and then to go with it to the grand inquest.

Judge : Gentlemen of the grand Jury, I shall send you presently a bill against one that hath taken upon him to write a new Primmer for the instruction of your children: He is a base and dangerous fellow; and if this be suffered, children by learning of it, will become such as he is. And therefore I hope you will do your duty.

The indictment being long took so much time to draw it up that the trial did not come on till the next day, when the court being set the Grand Jury found the bill and brought it in indorsed *Billa vera*.

(Benjamin Keach was then called to the bar, and the charge against him was read by the Clerk. In the original account of the trial it is fully set out; but as the substance of it will be gathered as the trial proceeds it is unnecessary to reproduce it here.)

Keach ; The indictment is so very long that I cannot remember half of it, nor have I been accustomed to plead to indictments; therefore I desire a copy of it, and liberty to confer with counsel about it, in order to put in my exceptions, and then I shall plead to it. – Judge : 'Tis your intention, I perceive, to delay your trial till the next Assize. – Keach : No, my Lord, I have no design by this to delay my trial. – Judge : I will not deny you what is your right, but you must first plead to your indictment, and afterwards you shall have a copy of it.- Keach : I desire I may have a copy of it before I plead, in order to put in my exceptions against it. – Judge : You shall not have it before you plead guilty or not guilty. – Keach : 'Tis what has been granted to others. – Judge : You shall not have it first; and if you refuse to plead guilty or not guilty I shall take it *pro confesso*, and give judgement against you accordingly – Keach : Not guilty, my Lord. – Judge : Now you may have a copy of your indictment, and I will give you an hour's time to consider of it. – Keach : If I may have no longer time I don't desire one. – Judge : I have something else to do, than wait upon you; you are not a person fit to go abroad till next Assize, and you will think it hard if I should commit you to gaol till then; but because you shall not say but that you were offered fair, if you will find sufficient sureties for your appearance at the next Assize, and for your good behaviour till then, you shall not be tried till then. – Keach : My Lord, I'm content to be tried now. – Judge: Go on, then, in God's name. – Clerk : Gentlemen of the Jury, answer to your names, &c.

Then the jury were sworn, well and truly to try the traverse between the King's Majesty and the prisoner at the bar.

Judge : Clerk, read the indictment. (He reads it). Gentlemen of the jury, the prisoner at the bar has pleaded not guilty, and your charge is to inquire whether he be guilty or not.

Then the witnesses were sworn, who were Neal and Whithall and Justice Strafford.

(The evidence of Neal was to the effect that taking with him his staff of authority, he went with Justice Strafford to one Moody's stall and asked for some of the primmers, but he had none. After that they went to Mr. Keach's house and saw his wife, who admitted having some primmers in the house, and produced 30 of them. The prisoner after the books were seized, confessed that he wrote and composed the said book; that he delivered a part of the copy to one Oviat, a printer at London, since dead; and that the rest of the copy he sent up by another hand, but that he knew not who printed it. About forty of them were sent down to him, of which he had dispersed about 12 and that the price was fivepence each book.)

After this the Judge called for a Common Prayer-Book, and laid it before him, and ordered one of the primmers to be given to the gentlemen of the jury, and bid them look on those parts where the leaves were turned down.

Judge : Clerk, read these sentences in the indictment which are taken out of the book, that the jury may turn to them, and see that the said positions are contained in the book.

Clerk : Q. "Who are the right subjects of baptism?" A. "Believers on [*sic*] Godly men and women only, who can make confession of their faith and repentance."

Judge : This is contrary to the Book of Common Prayer, for that appoints infants to be baptized, as well as men and women. (Here he read several places in the Liturgy wherein the baptizing of infants is enjoined and directed).

Clerk reads. Q. "How shall it then go with the saints? – A. Oh, very well! it is the day that they have longed for : then they shall hear that sentence – "Come ye blessed of my Father, inherit the kingdom prepared for you." And so shall they reign with Christ on earth a thousand years, &c.

Judge : This is contrary to the creed in the Book of Common Prayer, and is an old heresy, which was cast out of the Church a thousand years ago, and as likewise condemned by the Council of Constance about five hundred years ago, and hath lain dead ever since, till now this rascal hath revived it.

Clerk reads : Q. “Why may not infants be received into the Church now, as they were under the law?” – A. Because the fleshy seed is cast out, &c. – Q. “What then is the state of infants?” A. Infants that die are members of the kingdom of glory, though they be not members of the visible church. – Q. “Do they then that bring in infants by a fleshly lineal way err from the truth?” A. Yea, they do; for they make not God’s holy Word their rule, but do presume to open a door that Christ hath shut, and none ought to open.

Judge : This is also contrary to the Book of Common Prayer, which appoints infants to be received into the church, and directs the priest to say, when he hath sprinkled the child, “We receive this child into the congregation of Christ’s flock.” And, whereas, he says that infants that die are members of the kingdom of glory, though not of the visible church, he speaks this of infants in general, and so the child of a Turk or heathen is made equal with the child of a Christian. But the Church hath otherwise determined; that is, if an infant die after baptism, and before it hath actually sinned, it is saved, because original sin is washed away in baptism. Read on.

Clerk : Also, in another place, thou hast wickedly and maliciously composed a short Confession of Faith, in which thou has affirmed thus, concerning the second person in the blessed Trinity, in these plain English words, “I also believe that he rose again the third day from the dead, and ascended into heaven, and there now sitteth at the right hand of God the Father; and from thence he shall come again at the appointed time of the Father, to reign personally upon the earth, and to be the Judge of the quick and the dead.”

Judge : This is contrary to our creed; for, whereas he saith, “From thence He shall come again at the appointed time of the Father, to reign personally upon the earth, and to be Judge both of the quick and the dead”, our creed only saith, “From thence He shall come to judge both the quick and the dead.”

Clerk : And in other place thou hast wickedly and maliciously affirmed these things concerning true Gospel-ministers in these plain English words following : “Christ hath not chosen the wise and prudent men after the flesh, nor great Doctors and Rabbies.” Not many mighty and noble saith Paul are called, &c., as above.

Judge : This also is contrary to the Book of Common Prayer, for whereas the position in the indictment saith, Christ hath not chosen great Rabbies or Doctors, but rather the poor and despised, and tradesmen; the Book of Common Prayer doth admit of such. (Here he read some passages concerning the qualification of ministers and their manner of consecration.) Because Christ, when he was upon the earth, made choice of tradesmen to be his disciples, therefore this fellow would have ministers to be such now; taylors and pedlars, and tinkers, and such fellows as he is. But it is otherwise now, as appears from the manner in which the Church has appointed them to be chosen, ordained, and consecrated.

The Judge having thus gone through the indictment, the prisoner began to speak in his defence.

Keach ; As to the doctrines –

Judge : You shall not speak here except to the matter of fact; that is to say, whether you writ this book or not.

Keach : I desire liberty to speak to the particulars in my indictment, and these things that have –

Judge : You shall not be suffered to give the reasons of your damnable doctrine here to seduce the King's subjects.

Keach : Is my religion so bad that I may not be allowed to speak?

Judge : I know your religion, you are a fifth monarchy-man; and you can preach as well as write books; and you would preach here if I would let you; but I shall take such order as you shall do no more mischief.

Keach : I did not write all the book, for there is an epistle to it written by another hand; neither can it be proved that I writ all that is put into the indictment.

Judge : It is all one whether you writ it yourself, or dictated to another to write it; but it appears by your examination under your own hand, that you wrote it all.

Keach : Because I writ the major part of it, I was contented to let it go with the world *all* in my examination before Justice Strafford; but I cannot in conscience say I wrote it all; nor is it proved that I published it.

Judge : Yes, you did; for Moody had six books of you.

Keach : I did neither sell them, nor deliver them to him.

Judge : He had them at your house and it is not likely he should take them without your consent.

Keach : I do not say he had them without my consent.

Judge : It is all one then, as if you delivered them.

Here the Judge summed up the evidence and gave his charge to the jury; but this the Amanuensis has omitted.

The jury being withdrawn, staid for some hours; at length one of the officers who attended them came in.

Officer : My Lord, the jury about the Primmers cannot agree.

Judge : But they must agree.

Officer : They desire to know whether one of them may not come and speak with your Lordship about something whereof they are in doubt.

Judge : Yes, privately. (And then ordered one to come to him on the bench).

Then the Officer called one, and he was set upon the Clerk's table, and the Judge and he whispered together a great while; and it was observed that the Judge, having his hands upon his shoulder, would frequently shake him as he spake to him. Upon this person's retiring, the whole jury quickly came in, and being, according to custom, called over by their names, the Clerk proceeded.

Clerk : Are you agreed in your verdict?

Jury : Yes, yes.

Clerk : Who shall speak for you?

Jury : Our Foreman.

Clerk : How say you, is Benjamin Keach guilty of the matters contained in the indictment against him or not guilty?

Foreman : Guilty in part.

Clerk : Of what part?

Foreman : There is something contained in the indictment which is not in the book.

Clerk : What is that?

Foreman : In the indictment he is charged with these words, "When the thousand years shall be expired, then shall all the rest of the devils be raised;" but in the book it is, "Then shall the rest of the dead be raised."

Clerk : Is he guilty of all the rest of the indictment, that sentence excepted?

One of the jury : I cannot in conscience find him guilty, because the words in the indictment and the book do not agree.

Judge : That is only through a mistake of the Clerk's and in that sentence only; and you may find him guilty of all, that sentence expected [*sic*]; but why did you come in before you were agreed?

Foreman : We thought we had been agreed.

Judge : You must go out again and agree; and as for you that say you cannot in conscience find him guilty, if you say no again, without giving reasons for it, I shall take an order with you.

Then the jury withdrew, and in a little time returned again.

Clerk : Are you agreed in your verdict;

Jury : Yes.

Clerk : How say you, is Benjamin Keach guilty of the matters charged in the indictment against him, or not guilty?

Foreman : Guilty of the indictment; that sentence, wherein, Devils is inserted instead of Dead, only excepted.

Upon this, Benjamin Keach was called to the bar, and the Judge proceeded to pass sentence upon him as follows:-

Judge : Benjamin Keach, you are here convicted of writing and publishing a seditious [*sic*] and scandalous book, for which the Court's judgement is this, and the Court doth award, that you shall go to gaol for a fortnight, without a bail or mainprise; and the next Saturday to stand upon the pillory at Aylesbury, for the space of two hours, from eleven of the clock to one, with a paper upon your head with this inscription, "For writing, printing, and publishing a schismatical book, entitled 'The Child's Instructor, or a New and Easy Primmer.'" 'And the next Thursday to stand in the same manner, and for the same time, in the market of Winslow; and there your book shall be openly burnt before your face by the common hangman, in disgrace of you and your doctrine. And you shall forfeit to the King's Majesty the sum of 20/, and shall remain in gaol until you find sureties for your good behaviour and appearance at the next Assizes, there to renounce your doctrine, and make such public submission as shall be enjoined you. Take him away, keeper.

Keach : I hope I shall never renounce those truths which I have written in that book.

Clerk : My Lord, he says he hopes he shall never repent.

But the Judge taking no notice, the gaoler took him away.

According to the sentence passed upon him, he was kept close prisoner till the Saturday following, and then about eleven o'clock, was carried to the pillory at Aylesbury; where he stood full two hours to a minute, was denied the liberty of speaking to the spectators, and had his hands, as well as his head, carefully kept in the pillory the whole of the time..

On the Thursday following he stood in the same manner and for the same time at Winslow, the town where he lived, and had his book burnt before him.

After this, upon paying his fine, and giving sufficient security for his good behaviour, he was set at liberty; but was never brought to make a recantation.