

Unholy Intersection: Sectarianism meets Sedition

Bishop in the Dock: The Sedition Trial of James Liston

By Rory Sweetman

Auckland: Auckland University Press, 1997

The Grand Jury returned true bills in the following cases: A W Page, alleged murder; J M Liston, alleged sedition; F W Hargreaves, alleged assault; R A Carlisle, alleged forgery; C J Williams, alleged carnal knowledge, horse-stealing, and false pretences...

New Zealand Herald, 10 May 1922

Bishop James M Liston, Coadjutor-Bishop of Auckland, was charged with sedition following a speech he gave in March 1922 and later acquitted by the Supreme Court in May of that year. This states the bald facts of an important event in New Zealand history.

Dr Rory Sweetman has written an outstanding and exhaustive account of the background, the actual running and the aftermath of this sedition trial. This is a wonderful book. It is a beautifully presented and replete with numerous well-preserved photographs and cartoons from the period. The final product is a credit to Auckland University Press. (There is one tiny quibble and it concerns the bibliography. I wish the name of the publisher would be included along with the date and place of publication when book details are given. Is it customary to exclude this detail in history tomes? If so it is an irksome custom.)

Bishop in the Dock is meticulously researched—the winner of the Sir Keith Sinclair History Prize 1995. It is hard to think of any stones left un-turned. Sweetman's prose is lively and elegant and the tone well-balanced and impartial.

The book has a special interest for Otago readers. Chapter 8 investigates Liston's family history and early years in the province. Liston was born in Dunedin of Irish immigrant parents. He became Rector of Holy Cross College at Mosgiel and, sadly, this book is published the very year that institution will close with the staff and students transferring to Auckland. There are many wonderful wee titbits here for Dunedinites. For example, Sweetman speculates Liston was born at the famous Robbie Burns Hotel in George Street (one of the several Dunedin pubs run by his parents)!

Sweetman gives a detailed and colourful portrayal of the principal protagonists in this affair. For example, in chapter 3 we learn of the formidable James Gunson, Mayor of Auckland, described sardonically by the author in the chapter title as a "A Protestant With Backbone." Gunson made great political capital out of the Bishop's fateful St Patrick's Day speech at the Auckland Town Hall. Liston's speech was a rousing defence of Ireland and Irish culture coupled with thinly-veiled criticism of the British Empire. The speech concluded with reference to

the 155 martyrs who died in “that glorious Easter” of 1916, some of whom (57) were “murdered by foreign troops.” The latter was an allusion to the notorious Black and Tans. Some very sloppy reporting by newspaper reporters of the Bishop’s actual words (one journalist who had to rely upon his longhand scrawl, the other who had celebrated St Patrick’s Day “not wisely but too well”) combined with Liston’s enigmatic silence following the initial slanted publication set the stage for the trouble to unfold. Mayor Gunson was at the forefront of those who bayed for sedition charges to be laid. Following Cabinet consideration the charge was laid. Chapter 9 carefully outlines the machinations a somewhat reluctant Prime Minister William Massey and his colleagues went through leading up to their decision to proceed further. Liston’s effort to mollify the government and the public by an open letter to the Prime Minister (again, only a third of which was reported by the press) did little to assuage hurt feelings.

Liston was charged under section 118 of the Crimes Act 1908. Sedition, or more accurately (since there is no such thing as the crime of “sedition”¹) making seditious statements, publishing seditious documents or being party to seditious conspiracy remain as criminal offences under our present criminal code: see sections 80-85 of the Crimes Act 1961. The maximum sentence of two years imprisonment remains unchanged. Sedition now languishes as something of a dead letter on the statute book. In 1990 Sir Geoffrey Palmer, speaking as Prime Minister, castigated the continued retention of sedition under the 1961 Act: “Sedition should not be a crime in a democratic society committed to free speech. Libelling the Government must be permitted in a free society.”²

Perhaps sedition still has some sting in its tail. Sweetman notes (at 264) that the present Prime Minister, the Hon Jim Bolger, threatened to invoke the sedition law against Maori activists who threatened overseas investment in May 1995. (Deja vu here for, as Palmer noted above, the law against sedition was invoked regularly against Maori leaders in the latter half of the nineteenth century). We might also note that not too far away in Western Samoa, prominent matai were prosecuted for sedition in 1995.

Returning to the book, Liston himself was not the only Catholic clergyman to be prosecuted for sedition. Sweetman observes (at 144) a Father Roche, a visiting Australian, was arrested and tried for expressing seditious sentiments in 1917. (The priest picked the wrong soldier to tell that he was “a fool to go to the war”). After affirming his loyalty and expressing regret the priest was let off with a £5 fine and a warning.

The re-enactment of the trial itself in chapters 17 and 18 is as vivid as it is detailed. Many legal notables were involved: Liston’s principal defence counsel, Patrick Joseph O’Regan (later to become Mr Justice O’Regan) and Crown Solicitor, Vincent Meredith (later to become Sir Vincent Meredith QC) opposed one another. The Hon Mr Justice Thomas Walter Stringer presided at this difficult trial and comes out with shining colours. He is described by Sweetman (at 216) as a judge who “had earned a reputation as a ‘straight-goer’ with a nice sense of humour

¹ See Adams, *Criminal Law and Practice in New Zealand*, (2nd ed, 1971) at 713 ¶737.

² Palmer, “The Reform of the Crimes Act 1961” in Neil Cameron & Simon France (eds), *Essays on Criminal Law in New Zealand: Towards Reform?* (VUWLR Special Monograph No 3, 1990) at 19.

on the bench". Stringer J scrupulously endeavoured to dispel any suggestion of sectarian bias and later drew praise from the *Southland Daily Times*: "His entire attitude was exemplary and discouraged in every way the feeling that a Catholic Bishop was on trial for an offence that involved religious bigotry".

There are lessons to be learn from the Liston trial as Sweetman concludes. The Anglo-Irish question is one which is still very much alive, acrimonious and unresolved—witness British PM Tony Blair's recent efforts at promoting peace and reconciliation in Ireland, efforts which drew (verbal) fire in some quarters. Furthermore, it is hard not to agree with Sweetman (at 279) when he submits historians need to take a more stringent and nuanced look at European or Pakeha culture in New Zealand. We need to uncover and examine the minorities within that generic rubric Pakeha. Sweetman has done his bit to highlight one such subculture. His book forms an impressive Catholic trilogy along with those recently written by Jessie Munro and Michael King.³

For this reviewer the book brought home again the danger of sectarianism and the divisiveness it presents to the body politic and to everyday social intercourse. It was sad to read of the often bitter sectarianism of yesteryear compared with the relatively easygoing ecumenism of late twentieth century New Zealand Christianity. Vigilance is surely needed lest the cancerous spirit of discord re-emerge with full vigour again.

Rory Sweetman has done a splendid job in illuminating a fascinating episode in New Zealand history. His book will be of considerable interest to historians, political scientists, lawyers and theologians as well as the discerning lay reader. *Bishop in the Dock* is an outstanding addition to the all too small corpus of New Zealand legal history.

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³ Munro, *The Story of Suzanne Aubert* (Auckland: Auckland University Press/Bridget Williams Books, 1996); King, *God's Farthest Outpost: A History of Catholics in New Zealand* (Auckland: Penguin Books, 1997).