

**‘The Law that Never Was’ — a Codicil:
The Case of *The Just Vengeance***

Olga Horner

Following the publication of the ‘The Law That Never Was’,¹ Norah Lambourne, the costume and set designer for E. Martin Browne’s 1951, 1954, and 1957 productions of the York Mystery Cycle,² has written to me with some first-hand information about how the fear of theatrical censorship overshadowed preparations for the ground-breaking 1951 revival. In her letter she says:

I remember very well many of the discussions that went on and how concerned Martin [Browne] was about presenting God on the stage and the blasphemy laws. He was apprehensive about loud protests and disturbances right up to the first night of the Cycle in 1951.³

Now this is surprising, because in November 1949, he had already been told by Keith Thomson, the Artistic Director of the 1951 York Festival, that the York Mystery Cycle texts were exempt from censorship and licensing. A letter from the Lord Chamberlain’s Office to Keith Thomson had confirmed that the provisions of the 1843 Theatres Act did not apply to plays written before 1843, and more to the point, ‘the fact that the figure of Christ is represented in them and speaks, does not affect the legal issue [of censorship and licensing]’.⁴ This ought to have settled at least some of Martin Browne’s concerns.

On the question of blasphemy, he also knew by November 1949 that Mr P.B. Williamson, of Bird and Bird, the legal firm consulted by the Arts Council of Great Britain, thought the blasphemy laws did not seem to be immediately relevant to the York plays.⁵ But Counsel’s opinion included a caveat. Mr Williamson warned that if some fanatic objected violently or litigiously when a performance took place, the Lord Chamberlain might use the 1843 Theatres Act to stop it. S.14 of the Act enabled him to ban any theatrical entertainment, at any time, whether already licensed or exempt from licensing, if he thought it ‘fitting for the Preservation of good Manners, Decorum, or of the public Peace so to do’.⁶ With Martin Browne’s long experience of producing religious drama, he would be aware of the dangers of the all-embracing power of s.14, and of its arbitrary interpretation and application by the Lord Chamberlain in the past,⁷ in

spite of the positive rulings in 1949 by the Lord Chamberlain's Office, and the assurance that the criminal law of blasphemy did not apply to the York Cycle. Martin Browne was right to be anxious, as Norah Lambourne remembered he was, 'about presenting the person of God on the stage', and 'about loud protests and demonstrations right up to the first night of the Cycle', in case objections from members of the public caused the Lord Chamberlain to invoke s.14 at the last minute.

Norah Lambourne's letter to me enclosed some documents which shed light on why the staging of Dorothy L. Sayers' play *The Just Vengeance* in 1946 seemed to be important to both Keith Thomson and Mr Williamson. They each thought the production might be a persuasive legal precedent for Martin Browne's 1951 York Cycle, but for different reasons.

In *The Just Vengeance*, commissioned by the Dean of Lichfield, and performed in Lichfield Cathedral during June 1946 to celebrate the Cathedral's 750th anniversary, 'Persona Dei' has a conspicuous and active role. He appears and speaks as God the Father to Adam and Eve, as the Holy Ghost to Gabriel, and as the Son to Mary, as well as interacting with the play's modern characters.⁸ The presentation of God on the stage in this play encouraged Keith Thomson to believe that if the figure of Our Lord appeared in a play given in church the performance was not affected 'one way or the other by the blasphemy laws'.

Mr Williamson very much doubted that this was correct: he saw a different problem. Almost as an afterthought, he mentioned that it would be interesting to learn more about the circumstances in which *The Just Vengeance* was put on, 'and why no licence was required'. What he had in mind was s.12 of the 1843 Theatres Act which required any post-1843 play 'intended to be produced and acted for Hire, at any Theatre in *Great Britain*' to be licensed by the Lord Chamberlain. Mr Williamson suggested that because the play was not licensed, 'Possibly the performance was given either in private or without charging any fee for admission'.⁹

In fact, the opposite was true: according to Norah Lambourne's evidence the staging of the play had been clearly commercial and outstandingly public.¹⁰ She designed the costumes and setting for *The Just Vengeance*, running 'the workshops in Lichfield in company with the [paid] professional actors and musicians for several weeks', and the play was 'produced and performed by Frank Napier, an Old Vic professional actor and director'. Her contemporary press cuttings report the outstanding success of the play, whose first performance was attended by Queen Elizabeth

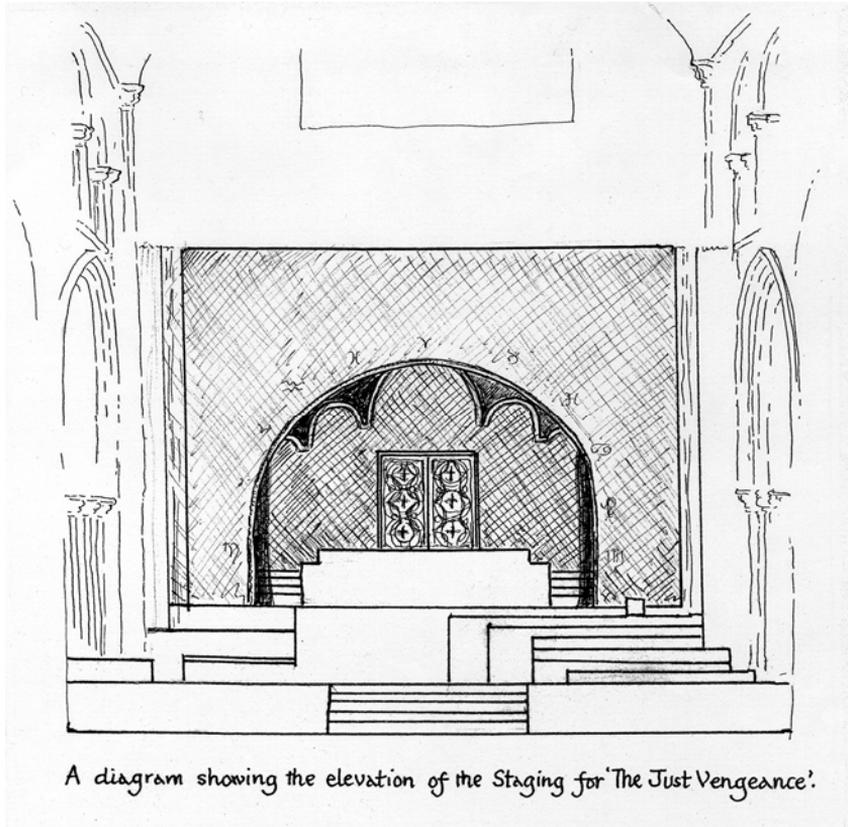


Plate 8: Staging diagram for *The Just Vengeance*
© Norah Lambourne

(the late Queen Mother), and other dignitaries of Church and State. Subsequently *The Just Vengeance* played 'to packed houses to a paying audience for two and a half weeks': 10,000 people each paid a 5-shilling admission fee (the equivalent of about £7 today). Significantly, all the performances took place 'without any protests',¹¹ so there were no grounds for the Lord Chamberlain to intervene for 'the Preservation of good Manners, Decorum, or of the public Peace'.

In 1944, while writing the play, Dorothy L. Sayers had 'formally raised the question whether there would be any objection to the representation



PLATE 9: *The Just Vengeance* at Lichfield, June 1946.
The stage is set at the west end of the Cathedral.
Photograph from Norah Lambourne's collection.

by an actor of the person of Christ'. Her biographer recalls that 'At that period the Lord Chamberlain ... could not have permitted this to happen on any stage in any theatre in the United Kingdom'. She goes on to say: 'In the case of a cathedral, authority rested with the Dean and Chapter. They raised no objection, providing the representation of Christ was made "under suitable conditions"'.¹² There is some misunderstanding here on the part of Miss Sayers' biographer. The Lord Chamberlain was responsible for licensing both theatres and plays. While the present Dean of Lichfield confirms that 'Cathedrals, like churches, are exempt from the requirement for a [stage] licence', church authorities had no say in the censorship of plays, and could not usurp the Lord Chamberlain's powers to license them.

However, for Keith Thomson, the successful staging of *The Just Vengeance* seems to have been the basis for his suggestion to Martin Browne that any legal problems with the 1951 York Cycle might be solved by the Archbishop of York's sanction. If he gave his blessing, 'the whole performance might become, so to speak, the same sort of thing as an open-air service'.¹³ Keith Thomson thought that the exemption of churches from licensing might somehow be extended to cover the Museum Gardens (the site of the ruins of St Mary's Abbey) where the plays were to be performed, thus sheltering the outdoors production from interference by the Lord Chamberlain.

But Mr Williamson saw the main problem as one of play, rather than theatre, licensing, and he knew that *The Just Vengeance* had not been licensed for performance by the Lord Chamberlain.¹⁴ Why not? As a post-1843 play it was subject to licensing under s.12 of the 1843 Act if it was 'intended to be produced and acted for Hire at any Theatre in Great Britain'. Was there a loophole in the terminology? Churches were apparently exempt from s.2 of the Act, which required places of public resort for the performances of plays [i.e. 'theatres'] to be licensed. Did the exemption allow them to be treated as private premises where unlicensed plays could be staged, even though admission fees were charged? We can only speculate whether Mr Williamson ever solved the legal puzzle.

He may have suspected that the 1951 York Mystery Cycle, although theoretically a collection of exempt pre-1843 plays, was in the same position as *The Just Vengeance*, and ought to have been licensed. The texts had been modernised, altered, and adapted by Canon Purvis: he had dovetailed them, or parts of them, into a single script, mostly translated into modern standard English, converting the plays into 'new' ones within

the meaning of the 1843 Act. In addition, the traditional processional pageants had been adapted for performance on a fixed stage with multiple settings.¹⁵ As late as 1967, it was officially claimed that even 'action' or 'business and dress' were regarded by the Lord Chamberlain 'as integral parts of the play' and changes made to them rendered a play subject to his control.¹⁶ Surely the considerable remodelling of the York Mystery Cycle should have brought the 1951 version within the scope of the Lord Chamberlain's licensing powers? But the Lord Chamberlain did not take action. Again, why not?

One reason might be that the so-called ban on representations of God on the stage was always idiosyncratically and illogically implemented. Or perhaps it was a matter of statutory interpretation, where the word 'stage' in the 1843 Act was taken as a synonym for 'commercial theatre'. Although a platform stage was constructed for *The Just Vengeance*, it was temporary, and the play was performed in a place which was not a theatre and did not require a Stage Play Licence. The 1951 York Cycle, again with purpose-built staging, was performed outdoors. The Museum Gardens required a temporary Stage Play Licence issued by the York Watch Committee, but the production did not take place in a building designed and exclusively used as a commercial theatre. Compare the fate, eight years later, of Bernard Miles' proposed production of the *Wakefield Mystery Plays* at the Mermaid Theatre, London. In 1959, the Lord Chamberlain forbade their performance, ruling that modernising either their 'dialogue or dress' would convert them into 'new' (post-1843) plays, and bring them within the 'ban on the impersonation of the Deity'.¹⁷

Perhaps Keith Thomson's instinct was right after all, that the approval of the established Church of England protected performances of religious drama, pre-empting any public accusations of blasphemy, and even superseding the Lord Chamberlain's censorship powers. *The Just Vengeance* and the 1951 York Mystery Cycle were both under the aegis of the Church authorities: the one marking a special commemorative event for, and in, Lichfield Cathedral; the other, backed by the Archbishop of York, being the city's chosen contribution to a nation-wide celebration. In the case of the 1951 production, the Lord Chamberlain willingly, even obsequiously deferred to 'the highest ecclesiastical authorities', whose support for the York Cycle made it 'in the highest degree improbable that the Lord Chamberlain would ever have cause for action'.¹⁸

Lancaster University

ACKNOWLEDGEMENT

PLATE 8 is reproduced by kind permission of Norah Lambourne. I have so far been unsuccessful in my search for the photographer of PLATE 9: any information would be welcomed.

NOTES

1. *Medieval English Theatre 23* (2001) 34–96.
2. The Norah Lambourne Archive, comprising her set and costume designs for the three productions, is currently held at Lancaster University.
3. A letter to me dated 28 January 2003 from Norah Lambourne, quoted by her kind permission.
4. Paragraphs A4 and A5 of the letter dated 9th November 1949 sent by Keith Thomson to Martin Browne, quoting a letter from the Lord Chamberlain's Office laying down the legal position: 'The Law that Never Was' *Medieval English Theatre 23* (2001) 38.
5. For an explanation of what constituted the criminal offence of blasphemy, see 'The Law that Never Was' 50–52, but the belief in the illegality of theatrical representations of God persisted. In a recent broadcast discussion about religious films, one contributor commented: 'Even in the late 1960s, there was still fear that portraying God in the movies would be open to prosecution under the blasphemy laws': 'Front Row', BBC Radio 4, 24 June 2003.
6. The Theatres Act 1843, s.14, *Statutes at Large 1843 6 Victoria to 7 Victoria* (London: Her Majesty's Printers, 1843).
7. For example, see the evidence given to the 1909 Joint Select Committee by W.P. Byrne, Assistant Under-Secretary of State for the Home Department: 'The Law that Never Was' 73.
8. Dorothy L. Sayers *The Just Vengeance* (London: Victor Gollancz, 1946) 47–79.
9. Paragraphs A1-A3 of Keith Thomson's letter and B1c of Mr Williamson's letter: 'The Law That Never Was' 37, 40.
10. Under s.16, a play required a licence 'in every Case in which any Money or other Reward shall be taken or charged directly or indirectly ... for the Admission of any Person into any Theatre to see any Stage Play ... every Actor therein shall be deemed to be acting for Hire'. S.2 made it an offence for 'any Person to have or keep any House or other place of public Resort for the public Performance of Stage Plays' without being licensed.
11. Letter dated 28 January 2003. My grateful thanks to Norah Lambourne for the loan of the programme, copies of her original set design, and the press cuttings. She has provided much interesting background information, including a

reference for Dorothy L. Sayers' biography, identifying the text which inspired Sayers to write *The Just Vengeance*. She has also described the logistics of staging the play in the Cathedral, which required the vergers to turn round all the seating before every performance to face the stage built in the west end, and back again before services the next day.

12. Barbara Reynolds *The Passionate Intellect* (Kent, Ohio: Kent State University Press, c. 1989) 83.
Earlier this year one of the proposals of a draft Licensing Act would have swept away this exemption. There was so much opposition to the provisions of this Act that it is unlikely to become law without major revision.
13. Paragraph A3 of Keith Thomson's letter: 'The Law That Never Was' 37. The Museum Gardens, York, where the Cycle was performed, required a temporary Stage Play Licence from the local Watch Committee: YDV 1851/1, 1951 Festival, York City Archives.
14. According to the British Library's index, *The Just Vengeance* was not submitted for licensing at any time before the Lord Chamberlain's censorship powers ceased in 1968.
15. E. Martin Browne with Henzie Browne *Two in One* (Cambridge UP, 1981) 184-186.
16. *Report of the Joint Committee on the Censorship of the Theatre together with the Proceedings of the Committee, Minutes of Evidence, Appendices and Index* (London: HMSO, 1967) Appendix 22 1c.
17. Philip Butterworth 'Discipline, Dignity and Beauty: The Wakefield Mystery Plays' in *Porci ante Margaritam: Essays in honour of Meg Twycross* edited Sarah Carpenter, Pamela King, and Peter Meredith *Leeds Studies in English* NS 32 (2001) note 45.
18. Paragraph A7 of Keith Thomson's letter: 'The Law That Never Was' 37, 46.



APPENDIX

The following four pages attempt roughly to reproduce the content and layout of the programme for the Lichfield performance of *The Just Vengeance*. They cast an interesting light on both the professional input into the production, and the quasi-religious atmosphere considered suitable to the place and the occasion. The Producer's Note (see bottom of page 114), however, disclaims any suggestion that the play was actually meant to be a church service.

OLGA HORNER

THE JUST VENGEANCE

The Lichfield Festival Play

for 1946

By

DOROTHY L. SAYERS

with music by

ANTONY HOPKINS

Programme 6d.

'THE LAW THAT NEVER WAS' - A CODICIL

DRAMATIS PERSONÆ

(in order of their appearance)

THE RECORDER, Angel of the City	SEYMOUR GREEN
THE CHORUS, Citizens of Lichfield	
GEORGE FOX the Quaker	FRANK NAPIER
THE AIRMAN	GORDON DAVIES
EVE, Mother of Mankind	ROWENA ROBINSON
MARY, Mother of Our Lord	DOROTHY BOND
ADAM, the First Man	PERCY CARTWRIGHT
CAIN	MICHAEL INGHAM
ABEL	
PERSONA DEI	PETER BAYLISS,
GABRIEL, Angel of the Annunciation ...	RAF DE LA TORRE
AN ANGEL	BARRY BRIGG
A SOLDIER	DONALD HARPER
	FREDERICK LAWRENCE

PERSONS OF THE CHORUS

AN INFORMER (afterwards JUDAS)	DENNIS RUDDER
AN INQUISITOR (afterwards CAIAPHAS)	JOHN HARRIS
A RICH MAN Afterwards HEROD)	CHARLES ROFE
A JUDGE (afterwards PILATE)	PAUL RICE
A ROMAN SOLDIER (afterwards EXECUTIONER)	WALTER PULLEN
EARLY MARTYR	HENRY ROBINSON
PROTESTANT MARTYR	JOYCE CRESWELL
SAMUEL JOHNSON	CHAPMAN DAVIES
HUNCHBACK	KAY HUDSON
LUNATIC	LESLIE PARKES
HARLOT	MARY BLACKBURN
POTTERY WORKER	ALBERT HARRISON
WIFE	MARGARET SALT
LABOURER	GEORGE COATON
WIDOW	JESSICA BASSETT
UNEMPLOYED MAN	MALDWYN WORMAN
MOTHER	JANE CARR
SAILOR	MARCUS WHICHELOW
SLAVEY	DOREEN EDGAR
BEGGAR	ALBERT HOUGHTON
PAUPER	BARBARA PRATLEY
CHIMNEY-SWEEP'S BOY	ANDREW SALT
CHILD	MARGARET HODGKINS

The whole action of the play takes place in the moment
of the Airman's death

OLGA HORNER

PRODUCER: FRANK NAPIER

DECOR and COSTUMES designed and supervised by NORAH LAMBOURNE
EURYTHMY, performed at the end of the play, arranged by ELLY WILKE
CHOIRS from Shenstone, Grendon and Dordon, and Lichfield, trained by
LESLIE MILBURN and AMBROSE PORTER
FOUR SINGERS

ROLAND COOK

HERBERT PARKER

ALBERT HODKINSON

ARTHUR WRIGGLESWORTH

STRING QUARTET

ILSE ADLER

WINIFRED NEALE

RALPH BASSETT

CLEMENT WATSON

ORGANIST

AMBROSE P. PORTER, F.R.C.O., B.MUS. (OXON)

The Music conducted by the COMPOSER

The Producer's cordial thanks are due to Mr. H. T. W. PEACH for untiring preparatory work.

Stage built by Robert Brideman & Sons, and Scaffolding (Great Britain) Ltd.

Scenery built by Watts & Corry, Ltd. (Fitups of Manchester). Lighting Equipment by Strand Electric & Engineering Co., Ltd.

Sound Amplification by Walker Bros., Ltd.

Crowns worn by the Persona and Mary made by Eileen Wreford.

The Recorder's chain and circlets for the Angels by Robert White & Sons.

Costumes of the Persona Dei, Recorder and Angels, Adam, Eve, Cain, the Harlot, the Lunatic, the Child, and the White Robes by the ladies of Lichfield.

Other costumes by the Old Vic Wardrobe and L. & H. Nathan, Ltd. Wigs by " Bert."

Tubular Bells by courtesy of the Chief Constable of Birmingham.

Stage Manager

EILEEN SHIPP

Electrician...

Norman Smith

PRODUCER'S NOTE

Some passages of the play are liturgical in character, but members of the audience are requested nevertheless to remain seated. Also, since the action is carried at certain moments down into the nave, the central nave passage should be kept absolutely free from obstructions.

Ladies may, if they wish, remove their hats.

The Just Vengeance

The Just Vengeance is a play which in many respects falls into line with the great series of mysteries and miracle-plays for which the Church in the Midlands was for centuries famous. It has been specially written for performance in Lichfield Cathedral, where should be found the needed atmosphere of reverence and faith. The play must not – indeed cannot – be judged in the same way as a play performed in a theatre. Its surroundings and its purpose alike place it in a different category. We approach it, and take part in it, with an effort of personal understanding and devotion.

The whole action of the play takes place in the consciousness of an Airman at the moment of his death, as he is shot down in combat during the war. In that single and supreme instant of time his spirit finds itself drawn into the fellowship of his native city of Lichfield. He hears George Fox, the Quaker, crying out its doom; he encounters Dr. Samuel Johnson, and citizens representative of every side of its life. And the question presses itself upon him: Suffering, Death, Justice – what do they all mean, for him and the human race ?

The answer is the story of our Redemption. Before him there pass Adam and Eve and their two sons, saddened, perplexed, and dismayed by the discovery of the evil that may be wrought by human invention and “progress.” Before his eyes are re-enacted the Passion and closing scenes of our Lord's life on earth. At length, realizing the inner meaning of self-sacrifice, the true interpretation of Atonement, and the power of the abiding presence of Christ in His Church, he accepts the Cross. The Christian message of salvation through Jesus Christ is set out for him and for us in a living relationship to the demands, the hopes, and the dangers of to-day.

Note

The price of 5/- for each seat has been fixed in order to cover the cost of production – and no more – since we wished as many persons as possible to see the play. But if you have appreciated the production, and would like to give a donation to the Festival Funds, please place your offering in one of the Cathedral boxes before you leave.

Lomax's Successors, Printers Lichfield.