

CIVIL INTERFERENCE WITH ECCLESIASTICAL COURTS

How insensibly the community has fallen into the belief that the church is part and parcel of the commercial world has been pointed out not in these columns alone, but in every report of the dishonesty and collapse of some well known religious fraud. It has come to be an axiom among thinking men [sic] that the person who involves his church membership with his business connections, and seeks to build up trade upon his religious profession is a fraud and a person to be avoided both in the commercial and religious circles. It is true, unquestionably, that business which depends so largely upon credit must to a very large extent be influenced by personal character, and pious eminence, church distinction and fellowship are recognized by many as the best, if not the only guarantees of that personal integrity without which business confidence cannot be acquired. Another interesting phase of the same question, namely, the relation between church membership and society at large, comes up in the suit of the Rev. Mr. McCarthy against the State Convention of the Universalist Church.

The public can scarcely have forgotten the unseemly wrangle which took place but a few months ago in the Bleecker street Universalist Church, wherein the Rev. Mr. Sweetser charged Mr. McCarthy with conduct unbecoming a clergyman and other offenses of a purely denominational variety. The trial was conducted amid great confusion. Accuser and accused conducted themselves with singular violence and want of dignity, even if they did not exhibit a marked contempt for ordinary decency. The charges of Mr. Sweetser having been maintained, the case came before the State Convention of the Universalist Church, [and] was then referred to the Committee on Fellowship, Ordination and Discipline, who examined it and reported a recommendation that Mr. McCarthy be reprimanded. The Convention, however, took a more serious view of the case, and by a unanimous vote instructed the Committee to revise their report and recommend that the offender be indefinitely suspended from fellowship in the church. Now the case comes before the Courts on a motion for a mandamus, compelling the Committee to restore him to fellowship and membership in the church. The motion is resisted by the defendants on the ground that Mr. McCarthy has a remedy within the church itself, namely, an appeal to the United States Convention of the Universalist Church. Counsel maintained in effect that this is a case clearly beyond the jurisdiction of a civil court, inasmuch as what is taken from the plaintiff is nothing that could be included in his civil rights. On the other hand there is a technical point involved in the case, namely the right of the Convention to instruct its

[Third Universalist Society, New York City]

committee to report a finding which it had not reached—a point which can doubtless be affirmatively settled by reference to the constitution of the church. For instance, it is possible that the Committee erred, according to the canons of the church, in recommending for specific offenses a penalty other than those canons had been imposed.

What is of vastly more importance to the community is the question whether society, through the Civil Courts, has any right whatever to interfere with the discipline of church organization. To the general proposition we think the answer should be in the negative. The church is in no sense a civil body. The rights and privileges which it bestows are in no sense of the word civil rights. They do not affect the person upon whom they are bestowed in his relation as a citizen. For if they do, then those who are not church members must of necessity be abridged in their rights and privileges as citizens—a proposition not for one moment to be entertained. What the church bestows, that only can it take away, and since it bestows no civil rights, it can certainly take none away. Its ecclesiastical gifts are clearly matters for ecclesiastical consideration only, and with that consideration the civil courts can have nothing to do. It is, moreover, not desirable for the public good that the civil courts should be used to uphold or destroy any ecclesiastical rulings. The church, according to one of the thirty-nine articles which gives the best definition of its limits obtainable, is “a congregation of faithful men [sic] wherein the pure word is preached” and nothing more. Those who are admitted to its membership must qualify by showing their identity of belief with it. The church has an unquestioned right to protect itself against misrepresentation and corruption by keeping out of it those whose faith and practice are opposed to it own; and when such members are found within it, the church has a most obvious right to expel them if they will not spontaneously withdraw.

*Brooklyn Daily Eagle*, Brooklyn NY, Fri. 2 Nov 1877

Transcribed on 20 August 2009 by Karen E. Dau of Rochester, NY