

[Third Universalist Society, New York City]

A MINISTER REINSTATED

Rev. Mr. M'Carthy's Litigation Decided—A Victory for the Clergyman

Rev. Charles P. McCarthy's litigation to compel his reinstatement as a member of the New-York State Convention of Universalists was decided yesterday by Judge Barrett, in the Supreme Court. Mr. McCarthy, after being reprimanded by the Committee on Fellowship, Ordination, and Discipline, was expelled by the convention. He brought a mandamus proceeding, which was tried before Judge Barrett on the alternative writ of mandamus, the answer, and a reply. Judge Barrett in his decision says:

"The committee's original judgment of reprimand was the only lawful one pronounced. That of the main body was in contravention of first principles. It was based upon a report, not only of the evidence adduced and the committee's finding, but of matter *dehors* [outside] the record, and of which the relator was kept in ignorance. The convention acted upon this new matter, and pronounced thereon a much severer judgment, without affording the relator an opportunity of being heard. *** We may add that even the original trial should have been before an impartial tribunal, and that the members of the committee who were objected to—for the good reasons set out in the alternative writ—exhibited, to say the least, a lack of delicacy in acting as the relator's judges. The objection that the *personnel* of the committee has changed is without force. The committee is a continuing one, and the writ runs, not against individuals, but against the members of the committee as such. Nor was a further appeal necessary. That which was taken was laid upon the table, and it is quite doubtful whether there is any tribunal to which the relator can look; certainly he was not bound to concede the legality of his expulsion by appealing for readmission to the favor of this committee. There must be judgment for the relator according him a peremptory writ of mandamus commanding the committee forthwith to convene and restore the relator, &c., with costs." Hermon H. Shook appeared for Rev. McCarthy and B. F. Tracy for the Committee on Ordination, &c.

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Transcribed on 27 August 2009 by Karen E. Dau of Rochester, NY