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I. WOMAN IN THE CHURCH.

As straws show the direction of the wind, so recent events in church and state indicate the movement of a popular current, more or less clearly defined, towards the removal of what are called woman's disabilities, and her enfranchisement in what are claimed to be her civil and ecclesiastical rights. There is not room in an article like this for a discussion of the genesis of this movement, or for a review, however cursory, of the debates and deliverances of various public assemblies, social, political and ecclesiastical, in which the strength of the movement has recently made itself felt. There is, we think, no just ground for fear that its current will gain momentum enough to sweep away the conservative barriers within which woman's agency is rightly confined. We have no sympathy with the fears expressed by a distinguished speaker in one of the recent Northfield conferences, when he says, "We behold woman to-day in a condition in which she is absolutely a menace to human society; grown restless and discontented; clamoring for rights when Christianity has brought her all that she has; at times divorced from the church, listening to the siren's song of infidelity, threatening to depart from the church that would withhold from her any privileges or rights she would claim; in the very capital of our nation threatening to join hand with anarchists to secure under another government what she may not secure here." It would be a gross injustice to the noble women of our land to hold them responsible for the incendiary utterances of a few restless spirits amongst them, or to suppose that they endorse the revolutionary sentiments of the speaker to whom Bishop

(1.) "The first caution necessary . . . is that suggested by Joel: 'Rend your hearts and not your garments.' God sets no value on fasting unless it be accompanied with a correspondent disposition of heart, a real displeasure against sin, sincere self-abhorrence."

(2.) "Lest it be considered as a meritorious act, or a species of divine service."

(3.) "That it be not enforced with extreme rigor as one of the principal duties."

With a due observance of these cautions, good, and not evil, will surely be the result. E. Geddings Smith.

Claussen, S. C.

THE WALNUT STREET CHURCH CASE.[1]

Our esteemed brother-presbyter, Judge J. D. Armstrong, of Romney, West Va., has filled more than *eleven* columns of your issue of May 4th[2] with an article from his pen, entitled, "Organic Union—the Property Question." The central and prevalent motive of his labored article is evidently to censure, and if possible, to nullify, the authoritative influence of the Supreme Court of the United States as to its decision in the now well-known cause entitled *Watson* v. *Jones*, reported in the thirteenth volume of Wallace's Supreme Court Reports.

As I have heretofore, in articles appearing in the *Central Presbyterian* in August and September, 1882, and in July, 1887, commented very fully upon that reported cause, and sought to show that the decision therein was righteous and equitable, and gave the only safe ground on which questions as to church property in the United States can be decided consistently with our principles of civil and religious liberty, I would not now deem it desirable or needful to write anything more on the subject, but for the fact that Judge Armstrong has thought it necessary to make some personal allusions, and to undertake a special refutation of the views upheld by me in those articles. How entirely he has failed in his undertaking, and how completely

[1] *The Presbyterian Quarterly* (January, 1889) having republished Judge James D. Armstrong's article entitled, "Organic Union—the Property Question" in which there are allusions and comments that give Mr. Howison, in justice, a right to reply, the readers of this periodical will find here the reply which was made at the time of the article's first appearance. In addition, there is a comment upon Judge Armstrong's *addendum*, as it appeared in a foot note on p. 106, Vol. III.—Editors.

[2] *The St. Louis Presbyterian*, in which the article first appeared.

Watson v. *Jones* maintains itself as a decision of far-reaching righteousness and equity, can, I humbly believe, be shown in an article of about one-fourth the length of that longitudinal essay which, although apparently imposing, is really unsound and misleading, although it, beyond doubt, expresses the honest convictions of our learned brother and of his co-workers in preparing it.

Early in his article, Judge Armstrong makes a full and candid admission which will go very far towards the desirable object of saving your readers from a great deal of toilsome labor and perplexing thought on this subject. His admission is in the following words: "There can be no question that the law *has been* and *should be* as laid down in Mr. Howison's amendment."

A brief explanation will set this matter in a clear light before all candid minds. Our learned brother does not deny the statement made by me in the articles referred to, that it has been not at all uncommon for reporters, in seeking to perform the very delicate and difficult duty of giving an accurate *syllabus* of questions of law and equity discussed and decided in the long written opinions of the judges, to make mistakes either of excess or defect, of commission or omission, and thus to misrepresent or to fall short of correctly representing the real decision. Every well-read lawyer knows that this is so; and therefore when a large and important cause is under argument the mere *syllabus* is never relied on, except by the more feeble and incautious members of the bar.

Now, although Mr. Wallace is, in general, an able and accurate reporter, he is not infallible. That he has made a serious slip in the *tenth* clause of his *syllabus*, and has omitted a very important qualifying element which ought to have been appended by him to the clause, is a *fact*, not only apparent to my own mind, but apparent to many other judges and lawyers who have carefully examined the *syllabus* as it is printed, and compared it with the lucid and convincing opinion of Mr. Justice Miller.

The clause left out in the *syllabus* as printed is as follows: "Provided the civil court be satisfied that that highest tribunal within the church organization had jurisdiction in the premises."

Now, Judge Armstrong admits that this "amendment" would, if it correctly represents the real decision of the court, make it apparent that the decision is what the law *has been* and *should be.* The *italics* are his, not mine.

This narrows the question down to the simple inquiry, Was the

decision of the court, as announced in the written opinion of Mr. Justice Miller, one which adopted and included the principle set forth in this statement, viz., "provided the civil court be satisfied that that highest tribunal within the church organization had jurisdiction in the premises."

I affirm that it was. Judge Armstrong denies. No evidence is admissible on this question except that of the opinion itself. To that I confidently appeal. The whole opinion is based on the fact that the Walnut Street Church, of Louisville, Ky., was under the jurisdiction of the Northern General Assembly, and that, in deciding the questions of construction and of church law and church matters involved, that General Assembly did not usurp jurisdiction not lawfully belonging to them. To maintain the affirmation I need only refer intelligent and candid readers to the opinion itself as printed in full in Wallace, 13th volume, especially to that part of it on pages 732 to 734, inclusive. There it will be seen that Mr. Justice Miller had his mind specially called to this question of jurisdiction, and dealt with it fairly and squarely, according to its merits and its application to the cause decided.

But Judge Armstrong is so anxious to repudiate the decision in *Watson* v. *Jones* that he introduces a great deal of irrelevant matter. Of this character is his quotation of a crude and unfounded *dictum* of the Northern General Assembly put by it into the "Appendix to its Minutes" in these words: "A spiritual court is the exclusive judge of its own jurisdiction; its decision on that question is binding on the secular courts." No such absurdity as this is found in or can be logically inferred even from the defective *syllabus* of Mr. Wallace; and no such principle is decided in *Watson* v. *Jones*. On the contrary, the opinion distinctly negatives it. (Pp. 732–734.)

It seems to me strange that Judge Armstrong did not see that his own statement of the decision of the Supreme Court of Pennsylvania, in the celebrated Presbyterian Church case (arising out of the disruption of 1837, 1838,) completely sustains the opinion in *Watson* v. *Jones*, No American civil court of appeals of final resort has ever decided that, for the purpose of ascertaining whether the church court had or had not jurisdiction as to questions of church property, the civil court has not power and authority to look into, and *as far as needed*, to interpret church constitutions, articles and agreements. But when once the civil court is satisfied that the church court of highest resort *had jurisdiction* as to the questions decided, the civil court can go no

farther. Whether the church court decided *right or wrong*, the civil court is bound by its decision. This principle is so distinctly laid down in Judge Gibson's opinion in the great church case, *Todd et al.* v. *Green*, that he who runs may read. And it is exactly on this principle that the decision in *Watson* v. *Jones* is founded.

This brings us to the finality of this matter. Judge Armstrong and his diligent co-workers, in all their labors, resulting in the article of eleven columns, have done nothing to disturb or overthrow the facts involved in the Louisville *Walnut Street Church* case. Those facts were simply these: That church was organized in 1842, nineteen years prior to the war. It was *always* under the jurisdiction of the General Assembly of the Presbyterian Church in the United States of America. It *never* was for one moment under the jurisdiction of our Southern General Assembly. After the war, and after the painful circumstances which resulted in the "Declaration and Testimony," some officers and about *thirty* members of the Walnut Street Church were dissatisfied with the proceedings of the Northern General Assembly and adhered to the "Declaration and Testimony" party, but all the other officers and *one hundred and fifteen* members approved of the proceedings of the Northern General Assembly, and disapproved of the "Declaration and Testimony." And the decision of the United States Circuit Court for Kentucky was this: that the officers and the *one hundred and fifteen* members, and the congregation who chose to adhere to them, had a right to the possession and enjoyment of the Walnut Street Church property, and could not be ousted by the few recalcitrant officers, and the *thirty* members who retired from the Northern Church. And this righteous and equitable decision was righteously and equitably affirmed by the Supreme Court of the United States.

I repeat again the earnest prayer that the principles decided in *Watson* v. *Jones* may never be overthrown. They are American principles, and are the true antagonists to the *Erastian* principles of Lord Eldon and the English House of Lords.

The foregoing is the reply made and published eight months ago to the essay now again brought to public notice. I add a comment on the statement in the *addendum* to Judge Armstrong's article (p. 106), as to alleged facts concerning the varying numerical proportions of the officers and members of the Walnut Street Church at various stages of the disturbance and conflict, which was ended by the final decision in *Watson* v. *Jones*. This statement is, in many respects, irrelevant and unfortunate. For it is entirely *dehors* the record in *Watson* v. *Jones*,

and no rule is more firmly settled in law and equity than this, that for the evidence of facts in the cause, counsel and court are confined to the written or printed record. And this rule is just and salutary, for it is the right and duty of the counsel on both sides to see that every material fact bearing upon the merits or upon any important question involved be presented in the evidence. Is it seriously pretended that Col. Bullitt managed the cause badly on his side? I think not.

But this *addendum* suggests a worse error still on the part of its writer. For it attempts to attach weight to a decision of a Special State Chancellor in Louisville, Kentucky, upon a question of church law and church discipline, arising out of this Walnut Street Church controversy. He seems actually to have claimed to decide (in his civil court) who were the lawful pastor and session, and who had been lawfully admitted as members of the church! This is the analogous question to that which the Judge at *nisi prius* decided in the great Pennsylvania church case of *Todd et als* v. *Green*, and for which he was reversed by the Supreme Court of that State. If anything is settled in our country it is that when a church court has jurisdiction and decides such church questions as those above stated the civil courts are bound by the decision and cannot review it or alter it in any wise.

Braehead, near Fredericksburg, Va. R. R. Howison.