CONNELLY v CONNELLY (1851): THE TRIALS OF A SAINT?

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The case of Connelly v Connelly *on the face of it simply concerned a suit by a husband for the restitution of conjugal rights. It became interlocked, however, with wider and deeper issues in Victorian England at a time when the Roman Catholic hierarchy was restored in 1850 and there was an upsurge in anti-Catholic sentiment. Both litigants were extraordinary and led eventful lives, and the cause of canonisation of the wife (Cornelia Connelly) is in progress. In a broad context, this article examines in detail the litigation between the spouses first at the Court of Arches in 1849-1850, and then on appeal to the Judicial Committee of the Privy Council in 1851. The litigation was inconclusive, and the case was eventually abandoned by the husband.*

Cornelia Connelly (1809-1879) led an extraordinary life, and her cause of canonisation in the Roman Catholic Church is in progress. The 1992 decree by the Congregation for the Causes of Saints on her heroic virtues gives a brief recital of her life, works and virtues, mentioning, among the difficulties she had to face, her husband's 'attempts before the English [civil] tribunals to force her to resume cohabitation'.[1] It is proposed to offer an outline of those proceedings before the Court of Arches and then the Judicial Committee of the Privy Council, noting some of the wider issues involved in what might seem a narrow suit by a husband for the restitution of conjugal rights.

Given the climate of the time, marked by an upsurge in anti-Catholic sentiment and the restoration of the Roman Catholic hierarchy in England in 1850, and the character and actions of Pierce Connelly, the *Connelly* case soon became intertwined with wider issues. The case was one of a set which had repercussions and attracted a good deal of publicity: as well as *Connelly v Connelly* (1850 and 1851), there was also *Metairie v Wiseman and Others* (1851), the *Talbot* case (1851), *Griffiths v de l'Espinasse* (1852), the *Achilli* libel (1851-1853), and *Boyle v Wiseman* (1854).[2] Achilli was an Italian former Roman Catholic priest who toured England denouncing Roman Catholicism. Some things written by John Henry Newman about Achilli led to Newman being found guilty of criminal libel, after proceedings widely regarded as unfair and unjust.[3] As with Cornelia Connelly, Cardinal

[1] *Acta Apostolicae Sedis* 85 (1993) 82-85; translation in W H Woestman (ed), *Canonization. Theology, History, Process* (Ottawa, 2002), pp 261-263.
[2] D G Paz, *Popular Anti-Catholicism in Mid-Victorian England* (Stanford, 1992).
[3] I Ker, *John Henry Newman: A Biography* (Oxford, 1988), pp 372-375, 397-399.

Newman's cause of canonisation is in progress, and since 1991 he has the title of 'Venerable'.[4]

Cornelia Connelly (née Peacock) was born in 1809 in Philadelphia, Pennsylvania (USA), and in 1831 married Pierce Connelly, also of Philadelphia and a priest in holy orders, in Philadelphia while both belonged to the Protestant Episcopal Church. They were happily married and had five children. The couple became dissatisfied with their religious allegiance to the point that Cornelia became a Roman Catholic in 1835 and Pierce in 1836. In 1843 Pope Gregory XVI agreed that Pierce could be ordained and become a Jesuit, and so in 1844 both spouses signed an act of perpetual separation. Specific provision was made for the education and future welfare of the surviving children, the youngest of whom was aged three. In 1845 Cornelia vowed perpetual chastity and Pierce was ordained priest. Cornelia realised that she was called to found a new religious congregation, and came to England where with some companions she began in 1846 the Society of the Holy Child Jesus. The Society spread internationally. Pierce, who had also come to live in England, tried to deny Cornelia contact with their surviving children so as to make her return to him as his wife, and initiated litigation. She persevered as a religious Sister and died at St Leonards-on-Sea in 1879. After her death the reputation of sanctity became known, and from 1959 to 1969 the ordinary informative process took place in the diocese of Southwark (England). Since 1992, Cornelia (like Newman) is styled 'Venerable'.

Such in its barest details was her life, but fuller biographical studies are easily available, and the public storm surrounding her husband's attempts to resume their married life is well documented and involved important figures at a time when the Roman Catholic hierarchy was being restored in England amidst fierce controversy and bursts of anti-Catholicism.[5] Pierce would write a number of tracts, whose nature can be deduced from their titles: 'Domestic Emancipation from Roman Rule in England' (1852), 'Reasons for Abjuring Allegiance to the See of Rome' (1852), and 'Oaths of Allegiance, A Security for National Independence' (1854).[6]

Bishop (later Cardinal) Wiseman, a constant supporter of Cornelia, wrote to Lord Shrewsbury:

> The Church never sanctions a married man to be a priest without his wife *at least* taking a vow of chastity, but I think I can say *never* without her embracing the religious state; unless they stipulate to live in different countries ... Mr Connelly had given his full consent to Mrs Connelly taking vows (I have it in his writing) as a condition of his own ordination ... In addition to this Mr Connelly signed at Rome a deed

[4] *Acta Apostolicae Sedis* 83 (1991) 365-369.
[5] C McCarthy, *The Spirituality of Cornelia Connelly: In God, For God, with God* (Lewiston, 1986).
[6] J Wadham, *The Case of Cornelia Connelly* (London,1956), pp 308-309, lists Pierce's publications.

> of separation ... He has no rights as a husband whatever before the Church ...[7]

This to no avail, as Pierce had already gone to his solicitors, and on 1 December 1848 his solicitors wrote to Wiseman that Pierce sought advice on the proper legal measures to be taken to obtain a restoration of Cornelia 'to her right position as his wife and the mother of their children'. As Pierce's bishop, Ullathorne, wrote on Christmas Eve to Lord Shrewsbury explaining that he would have to warn Pierce that if he pressed his suit it would at once affect his exercising of priestly functions. But no canonical sanctions seem to have been taken against Pierce.[8] At that stage (28 December 1848), Pierce was writing that if he failed in the courts he would continue the battle in the House of Commons and then involve the American government.[9] On 25 January 1849 a writ was served on Cornelia. She immediately wrote to Wiseman, who reassured her that she would be fully instructed what to do, that no personal appearance would be required, and that he would look after everything for her.[10]

THE COURT OF ARCHES (1850)[11]

The case before the Court of Arches was a cause of restitution of conjugal rights promoted by the Rev Pierce Connelly against Cornelia Connelly. The cause was brought by letters of request from the Chancellor of the Diocese of Chichester. The Court of Arches was primarily an appellate court, but in the 19th century it became increasingly popular to initiate suits there by letters of request from a diocesan court within its province because of the dearth of the required legal expertise in lower courts. The process was also attractive to litigants as a way of saving time and money.[12] *Connelly* was decided by the then Dean of Arches, Sir Herbert Jenner Fust. Sir Herbert was drawing to the close of a distinguished career, and so many of his family were involved in Doctors' Commons, an association closely linked to the ecclesiastical courts and the Court of Arches in particular, that in jest it was known as the 'Court of the Jenners'. He died in 1852.[13] In precisely the years that the *Connelly* case was being heard in the Court of Arches, Charles Dickens was publishing his view of the doings of Doctors' Commons and its associated courts and lawyers. How accurate and fair

[7] Wadham, p 151.
[8] A few days later, Ullathorne wrote: 'I shall do nothing with reference to Mr C until canonically obliged to do so': Wadham, p 154.
[9] After the litigation was over, see *Petition of Pierce Connelly, Clerk (Requesting that the House of Commons order the suppression of convents. With special reference to Cardinal Wiseman and Cornelia Augusta Connelly)* 1852; Wadham, pp 308-309.
[10] Wadham, pp 159-160.
[11] There is a lengthy report of the case in *The English Reports* CLXIII, Ecclesiastical, Admiralty, and Probate and Divorce III, pp 1291-1314 [2 Rob Eccl 203], and page numbers refer to these *Reports*.
[12] M Barber, 'Records of the Court of Arches in Lambeth Palace Library' (1993) 3 Ecc LJ 10-19 at p 10; R Phillimore, *The Ecclesiastical Law of the Church of England* (London,1873) vol II, pp 1278-1279.
[13] J Cox, *Hatred Pursued Beyond the Grave* (London, 1993) p 10; G D Squibb, *Doctors' Commons* (Oxford, 1977) p 36.

David Copperfield was is a matter of debate, even though Dickens worked in Doctors' Commons as a young man.

The law report begins with a lengthy factual account of events, combined with relevant legal material including the 'rules' of the Roman Catholic Church applicable to the question at issue between the parties (article XXI, pp 1296-1297). This article stated Roman Catholic canon law concerning the separation of married couples to enter religious life or be ordained, beginning with Gregory IX's *Decretals*, as it had come to be accepted.[14] Various documents, translated from Latin, French and Italian, were offered as exhibits and argued over. On 23 March 1850, Sir Herbert Jenner Fust delivered his judgment. He began by recalling how Pierce was seeking restitution and that an allegation was brought on behalf of Cornelia, constituting her defence to the suit. Sir Herbert had been of the opinion that this allegation was not admissible as it stood and so a new allegation was substituted. He was particularly concerned about a document said to be a decree tantamount to, and in effect, a sentence of separation pronounced by a competent court.

As for the Roman Catholic law involved, the mode of pleading it was 'certainly somewhat out of the usual course', but Sir Herbert thought it had been correctly pleaded. The question therefore became:

> ... what effect has this law on a marriage of two American subjects, who being Protestants at the time of marriage, afterwards abjured that faith, and were admitted members of the Roman Catholic Church, with these circumstances in addition that the husband took orders in that Church, and the wife became professed in religion? (p 1306).

That the law was as pleaded did not suffice to determine the whole question, because, in order to make this law binding in England, it had to be shown that it had been received there. In questions of marriage contract the *lex loci contractus* determines the status of the parties, but it was not known, and no authority had been cited to prove, that laws peculiar to a particular State, which are no part of the *jus gentium,* are necessarily taken notice of by other countries, in which individuals may come to reside. It was not therefore sufficient to say what 'the law of Rome' had done; it has to be shown that the law is, for this purpose, the law of this country. In this respect, to some extent, went on Sir Herbert, the subject of marriage-contract has been considered and distinguished from other contracts (p 1307). The English ecclesiastical courts have adopted, as to marriage,

[14] 'And so much was and is well known to the Judges and Advocates presiding or practising in Roman Catholic Ecclesiastical Courts, and others of reputation for their skill and knowledge of the law as there administered, and is also laid down by divers authors of eminence and authority on that subject': p 1296 in the Court of Arches, and p 954 at the Privy Council. Regrettably the report gives no details for the canonical sources and authorities, beyond a generic reference to the Title *De conversione conjugatorum* (X 3.32) in Gregory IX's *Decretals*. For such a separation to be allowed when the spouses had young children seems unusual.

the *lex loci contractus*, not simply because it is such but because the law of England adopts that law as part of its own code in dealing with foreign marriages. Sir Herbert then said:

> The law of Rome, unless it can be shewn that it has been adopted in this country, can have no effect here. Other countries may adopt the law of Rome, but it is no part of the law of this country that the municipal regulations of Rome should here have effect; and therefore they are not entitled to the same comity as the *lex loci contractus* in determining the status arising out of a marriage celebrated in a foreign country (p 1308).

It was the law of England that was relevant to the rights and duties of the marriage of the Connellys, unless it could be shown that the law of Rome has been imported and has become part of England's law. Sir Herbert stated that no case cited to him showed that the law of Rome, with respect to the question at issue, had been adopted in England. He added that even when the Roman Catholic religion prevailed, foreign professions (of religious) were not regarded here at all.

Turning to the rights and duties arising out of the contract of marriage, one of them is the cohabitation of the parties. Separation cannot be effected by mere private agreement of the spouses; it must be by a judicial sentence. The ecclesiastical courts of England pay no attention to deeds of separation but pronounce, when required, for the restitution of conjugal rights. What of this case? A sentence of separation pronounced by a competent court is undoubtedly entitled to considerable attention. In this suit a sentence is referred to which is pleaded to be tantamount to, or in effect, a sentence of separation, and so considered at Rome; the document had to be looked at to see what it does import in its own terms. For Sir Herbert, 'to call this document a sentence of separation is, I think, to give it a name somewhat beyond what its words can warrant' (p 1310). The document was really to do with the husband entering holy orders and was not a sentence of separation. Sir Herbert then examined whether or not the other circumstances connected with this case are such as to entitle the parties to separate themselves from each other in this country. Cornelia's profession in religion had to be considered. It was clear that Mr Connelly could not have entered into a religious society after the legislation of 1829, but this did not apply to female religious.[15] Still, her position as someone professed abroad was not better than before the legislation (p 1312).

Although a good deal had been said about the motives which, it was supposed, actuated Pierce in instituting this suit, Sir Herbert concentrated on the fact that consent to separation was no bar to a suit for restitution of conjugal rights. It may be that Pierce instituted the suit to protect himself against demands made on account of his wife; such would be a legitimate ground for the proceedings. Sir Herbert concluded that if

[15] Roman Catholic Relief Act 1829 (10 Geo 4, c 7).

Cornelia's allegation were in every particular established by evidence, that evidence would form no bar to the sentence sought by Pierce. Yet one more argument remained: though the court might not accept a bar to this suit, 'nevertheless, the Court may hold its hand' considering the situation in which Cornelia had been placed by the vows taken with her husband's consent (p 1313). This Sir Herbert did not feel entitled to do. As for the sentence in favour of Pierce:

> What the effect of that sentence may be is a consideration into which I, at the present moment, will not enter; but being of opinion that the facts and circumstances pleaded in the allegation would not be a bar to the sentence prayed, being also of the opinion that the Court is not entitled to hold its hand, I reject the allegation altogether, without entering into the law, which I assume to be correctly pleaded in the 21st article (p 1314).

The case before Sir Herbert Jenner Fust had been drawn out and lively; Dr Bayford and Dr R Phillimore, on behalf of the husband, were repeatedly interrupted by the judge (p 1302).[16] As this was a new case, Sir Herbert required the cause to be conducted in accordance with the strictest forms. Pierce was jubilant, Cornelia appealed. Wiseman went to Rome later in 1850 and was to return to England as Cardinal Archbishop of Westminster amidst a storm of protest at Rome's restoration of the Roman Catholic hierarchy. He was still concerned about Cornelia's case.

THE PRIVY COUNCIL (1851)[17]

Cornelia thus became the appellant from the decision in the Court of Arches rejecting her allegation, her husband being the respondent. Since appeals to the Pope and papal delegates had been stopped in England at the Reformation, the practice grew of appointing delegates to hear ecclesiastical appeals. In 1833 the system was altered so that final appellate jurisdiction in ecclesiastical law was transferred to the Privy Council, now given a Judicial Committee.[18]

The *Connelly* appeal was heard by the Chief Baron (Sir Frederick Pollock), Dr Lushington, Pemberton Leigh and Sir Edward Ryan. Pierce had Dr Bayford and Dr R Phillimore as counsel, while Cornelia now had R Palmer QC, Dr Addams and Mr Bowyer. The report gives an indication of the way the case flowed, and the argumentation would be worth separate study on a number of issues (pp 960-966). Dr Phillimore, for Pierce, noticed the rather generic and loose account of Roman Catholic canon law based

[16] Addams and Robertson are mentioned as appearing for the wife (p 1303).
[17] The full report in *The English Reports* XIII, Privy Council II, pp 949-966 [7 Moore 437] has been used and its pagination referred to.
[18] J H Baker, *Monuments of Endlesse Labours: English Canonists and their Work, 1300-1900* (London, 1998), pp 129-130; R Phillimore, *The Ecclesiastical Law of the Church of England* (London, 1873) vol II, pp 1268ff.

on the *Decretals*.[19] Phillimore would himself become Dean of Arches in 1867.[20]

The report opens with the statement that an allegation responsive to the libel was given in on behalf of Cornelia, that it was opposed, and that afterwards, upon the suggestion of the Dean of the Arches that it should be reformed, it was entirely subducted and a new allegation brought in. The revised allegation is then recounted in detail (pp 950-960). Two reasons were advanced on behalf of Cornelia as to why the allegation rejected ought to have been admitted to proof:

(1) Because the rescript and allowance of the Pope, on the joint petition of both spouses, the subsequent ordination of Pierce, and the vows of religious profession by Cornelia had the force and effect in law of a judicial sentence, or decree of divorce, or separation, *a mensa et thoro*; at least sufficient to protect Cornelia from the obligation of returning to live with Pierce and render him conjugal rights;[21] and
(2) Because, independently of that rescript or allowance, Pierce's whole conduct towards or in respect of Cornelia, as set forth in the allegation, has been such as, if established by evidence, ought to preclude him from obtaining the aid of an ecclesiastical court to compel Cornelia to renew cohabitation, and therefore the court below should have permitted that whole conduct to be pleaded.

In response to this, Pierce contended that the decree was right because the matters pleaded in the allegation would, if proved, be insufficient to bar his suit.

Given the lengthy report of the ebb and flow of argument in court, there is a rather abrupt ending when their lordships, without hearing Dr Addams in reply, delivered judgment by Dr Lushington. Lushington was immensely experienced, almost the epitome of the civilians, and he was appointed Dean of Arches in 1858. He had joined Doctors' Commons in 1808, five years after Jenner Fust. At this time it was the practice of the Judicial Committee to give only a single judgment, and Lushington said that their lordships were of the opinion that the allegations given by Cornelia ought to be admitted, provided it was amended by pleading two facts to be mentioned. Their lordships pronounced no opinion whatever upon the facts of the case, but if these additions are made, they would admit the allegation and remit the cause to the Arches Court. The result was that the following order was made upon the appeal:

[19] 'These Decretals are accessible, and the Court is as capable of forming an opinion on the law, as any advocates in Europe. But the law, as laid down in the allegation, is not borne out by the Decretals' (p 964).
[20] J H Baker, *Monuments of Endlesse Labours*, ch 15, on Phillimore.
[21] There is an interesting parallel in this line of argument with medieval English practice. When the defendant in a suit for restitution asserted a reason for his or her action, the suit often became one for judicial separation, the canonical divorce *a mensa et thoro;* R H Helmholz, *The Canon Law and Ecclesiastical Jurisdiction from 597 to the 1640s* (Oxford, 2004), p 536.

> Leave to the said Cornelia Augusta Connelly to reform the allegation given in on her behalf in the Court of Arches, and rejected by the Judge of the said Court, by pleading and setting forth, if she shall be so advised, the law of Pennsylvania, as applicable to the circumstances pleaded and set forth in this cause, in case the same had been brought to adjudication there, and also the domicile of the said Reverend Pierce Connelly, clerk, at the time of the transaction pleaded in the same allegation to have taken place at Rome (p 966).

REPERCUSSIONS

Lushington had been a member of the Privy Council since 1838, and indeed in his time he sat more often than any other member but one, and drafted more judgments than any other.[22] The judgment he delivered, despite much interesting argumentation in the course of the hearing, is extremely curt. For whatever reason, almost certainly because of Pierce's lack of funds, nothing more was done judicially and the battle was expanded and continued through pamphlets and other writings. Eventually, the case was formally dismissed by the Privy Council, and by 1859 Cornelia had managed to pay off all Pierce's liabilities for the suit.[23]

The personal drama of the two spouses became representative of far larger struggles in England, and involved important figures in the legal and ecclesiastical worlds. Exactly at the same time, the Rev George Gorham brought suit against the Bishop of Exeter for refusing to institute him to a benefice to which he had been presented. In 1849 Jenner Fust, as Dean of Arches, decided against Gorham, but the decision was reversed in 1850 by the Privy Council which included Lushington.[24] There are strange coincidences, including the intense national debate surrounding the two cases as well as the torrent of pamphlets and other publications they unleashed. As the Dean of Arches had recognised that *Connelly* was a 'new case',[25] so rare was the case that Gorham initiated that for some time no precedent could be found for the forms of pleading.[26] Part of the difficulty in the *Gorham* case was how to deal with theology, and how appropriate it was for a secular court such as the Privy Council to do so. In 1847 Lushington drafted a Bill to increase the ecclesiastical presence in the court (to include professors of divinity). As the *Connelly* case approached the Court of Arches, Wiseman wrote that Pierce 'was going into a Protestant, ecclesiastical court, being a priest bound by a vow of celibacy, to ask that his wife now, with his consent, a nun, and bound by

[22] S M Waddams, *Law, Politics and the Church of England. The Career of Stephen Lushington 1782-1873* (Cambridge, 1992).
[23] M Thérèse, *Cornelia Connelly. A Study in Fidelity* (London, 1961), p 108.
[24] A Jordan, 'George Cornelius Gorham, Clerk v Henry Philpotts, Bishop of Exeter. A Case of Anglican Anxieties' (1998) 5 Ecc LJ 104-111.
[25] Pierce wrote to Lord Shrewsbury on 21 December 1848 that the lawyers '... I fear are over-anxious to have such a novel and exciting case to try where they are sure of success': M Thérèse, *Cornelia Connelly*, pp 100-101.
[26] S M Waddams, *Law, Politics and the Church of England*, p 271.

vow should be compelled to cohabit with him'.[27] For different reasons, both cases caused disquiet about the appropriateness of the judicial forum and raised questions about the nature of the Church of England. At one point before the Privy Council, Dr Addams, appearing for Cornelia, asked if, given all the circumstances, the court would make the wife break her vow. Sir Frederick Pollock intervened to ask, 'Was the case argued in the Court below as a religious question?', and added that the Court of Arches did not seem to have treated the case as a religious question, although surely if we tolerate the Roman Catholic religion we must tolerate it with all reasonable consequences flowing from it (p 960).[28] As today it is still asked if Roman Catholic canon law may be enforceable in England as 'foreign law',[29] it is interesting to read part of the argument at the Privy Council stage by Dr Phillimore (for the husband) and R Palmer QC (for the wife). For Phillimore:

> It is a new step attempted to be introduced into Courts of Justice, of making the regulations of the Church of Rome binding, and to be recognized by the *jus gentium*. It is a grave question whether Courts of Justice can take cognizance at all of the rules of these religious institutions.[30]

For his part, Palmer maintained that at one stage the parties were domiciled in Rome and therefore subject to its laws:

> It cannot be urged that it is contrary to the *jus gentium*, or the law's morality, to recognise the acts done there. All Europe was Roman Catholic until the Reformation, and sentences of voluntary separation, such as this, were well known (p 962).

The order of the Privy Council did, of course, direct Cornelia to state the relevant law of Pennsylvania and the domicile of Pierce at the time of the transaction pleaded to have taken place in Rome. For the Privy Council to speak of a 'transaction' was a carefully chosen, non-committal term.

So much in this case awaited the judicial determination it never received. In particular, the various issues falling within the ambit of international law needed precise and co-ordinated attention, and would have received it along the lines indicated by the Privy Council's order had Pierce Connelly persisted in the courts. As for 'private international law', a term it seems coined by Story in 1834, although continental jurists had discussed since medieval times a number of the issues involved, English lawyers lagged

[27] J Wadham, *The Case of Cornelia Connelly* (London,1956), pp 153-4; Wiseman to Lord Shrewsbury on 22 December 1848.
[28] Phillimore did not favour giving a tolerated religion all the consequences flowing from it, and spoke of 'the present disturbed state of religious parties in this country' (p 965).
[29] N Doe, *The Legal Framework of the Church of England* (Oxford, 1996), pp 25-26 and 10-11.
[30] Phillimore then (p 965) refers to *Fulham v M'Carthy* (1847) 1 HL Cas 721.

behind. What has been described as 'the embryonic period' of private international law extended to at least the middle of the 19th century.[31] Members of Doctors' Commons and the civilians in general would have had particular expertise in this area of learning, also known as the conflict of laws, and the law determining cases such as *Connelly v Connelly* in the English ecclesiastical courts repays further study.[32] Phillimore had published a book on domicile before he appeared in the *Connelly* case, and in it he reproached English lawyers for their very slight acquaintance with Roman law, the great repository of principles concerning domicile and much else.[33] In the event, the Judicial Committee of the Privy Council firmly ordered that both the law of Pennsylvania as applicable to the circumstances pleaded and the domicile of Pierce at the time of the transaction pleaded to have taken place in Rome be established. Once these facts had been ascertained, the English ecclesiastical court could have proceeded to assess the law(s) governing the marriage and the separation. The relevance or otherwise of Roman Catholic canon law would have been part of the judicial determination, as would the extent to which an English ecclesiastical court was prepared to accept and enforce particular foreign law(s). All these issues in private international law, and others, were not distinctly and exhaustively analysed and settled by the Dean of the Arches, possibly hampered by uncertainties in the state of knowledge in this juridical area.

It looks as if Pierce had, from before the litigation started, tried to involve himself not only in Cornelia's vocation but in the running of her religious Congregation.[34] He also came to think he was being unjustly cut off from his wife by the Roman Catholic authorities, especially Cardinal Wiseman, and that this was but an instance of a generally oppressive Church that threatened England as a whole. The tenor of his various tracts and pamphlets makes this clear, but even in 1848 he had said he thought Cornelia was not a free agent.[35]

A pamphlet written (by Pierce himself?) to raise money to continue his struggle through the courts stated that the real objective of those in

[31] Cheshire and North's *Private International Law* (13th edn) (London, 1999), pp 13-19. The *Connelly* case is referred to as a rare example of extrajudicial separation coming before the English courts (p 798). See also P M North, *The Private International Law of Matrimonial Causes in the British Isles and the Republic of Ireland* (Oxford, 1977), pp 292-293, 396.

[32] Soon after the *Connelly* case, Phillimore started to publish the volumes of a treatise that as well as public international law referred to private international law or *jus gentium privatum*: R Phillimore, *Commentaries upon International Law* (London, 1854) I, 12-13.

[33] R Phillimore, *The Law of Domicil* (London, 1847), p 2. He considered the law on domicile to be an important branch of private international law.

[34] J Walsh, 'The Vocation of Cornelia Connelly' *The Month* 20 (1958) 261-273, 21 (1959) 19-33 at p 20.

[35] Pierce to Lord Shrewsbury, 22 December 1848: 'I do not know if Cornelia is satisfied that I do not consider her a free agent and never will do so, nor hold communication with her until she is out of all control'; J Wadham, *The Case of Cornelia Connelly*, p 158.

authority defending Cornelia was '... trying the strength of the Canon law of Rome with the law of England, on English soil and in an English court'.[36] He warned the people of England with great vigour against the lurking dangers of Romish slavery, and he deplored the effects of Catholic Emancipation as being no help to real freedom. What had happened to him should be a warning to all; 'The story of my struggle may soon become the story of your own'.[37]

The *Connelly* case also interlocked with agitation and polemic surrounding the regulation and conduct of religious houses. As his case opened in the Court of Arches, Pierce became associated with Henry Drummond MP, a noted agitator for the inspection of convents. After the decision in his favour, with Cornelia's appeal against it pending, Pierce tried to petition Parliament in virulent terms to control convents. There was widespread concern in some quarters over the freedom and moral safety of women religious, with Bills proposed and select committees sought.[38] In reply, Ullathorne wrote *A Plea for the Rights and Liberties of Religious Women*.[39]

As for the Connellys, Pierce reverted to being an Episcopalian and ministered in Florence until his death in 1883. Cornelia continued to live as a religious until her death in 1879. By then, the legal world they had participated in however briefly and reluctantly had been transformed: Doctors' Commons functioned no longer, and the ecclesiastical courts had lost their matrimonial jurisdiction.[40]

[36] *Case of the Rev Pierce Connelly* (London, 1853), p 11.
[37] P Connelly, *The Coming Struggle with Rome, Not Religious but Political* (London, 1852), p 11.
[38] D G Paz, *The Priesthoods and Apostasies of Pierce Connelly: A Study Of Victorian Conversion and Anticatholicism* (Lewiston,1986) gives the text of Pierce's petition (28.4.1851) at pp 302-319.
[39] C Butler, *The Life and Times of Bishop Ullathorne* (2 vols) (London, 1926) I, 169.
[40] J H Baker, *Monuments of Endlesse Labours*; E W Kemp, *An Introduction to Canon Law in the Church of England* (London, 1957).