


1911

Evangelists vs. Elder: A Brief Sketch of the Jamesport, MO., Church Trouble With Correspondence Relating to Same: To Which Is Appended The Written Opinion and Decree of Judge Arch B. Davis, Trial Judge in the Case.

P. H. Lilly

Follow this and additional works at: http://digitalcommons.acu.edu/crs_books

 Part of the [Christian Denominations and Sects Commons](#), [Christianity Commons](#), and the [History of Christianity Commons](#)

Recommended Citation

Lilly, P. H., "Evangelists vs. Elder: A Brief Sketch of the Jamesport, MO., Church Trouble With Correspondence Relating to Same: To Which Is Appended The Written Opinion and Decree of Judge Arch B. Davis, Trial Judge in the Case." (1911). *Stone-Campbell Books*. Book 75.

http://digitalcommons.acu.edu/crs_books/75

This Book is brought to you for free and open access by the Stone-Campbell Resources at Digital Commons @ ACU. It has been accepted for inclusion in Stone-Campbell Books by an authorized administrator of Digital Commons @ ACU. For more information, please contact dc@acu.edu.

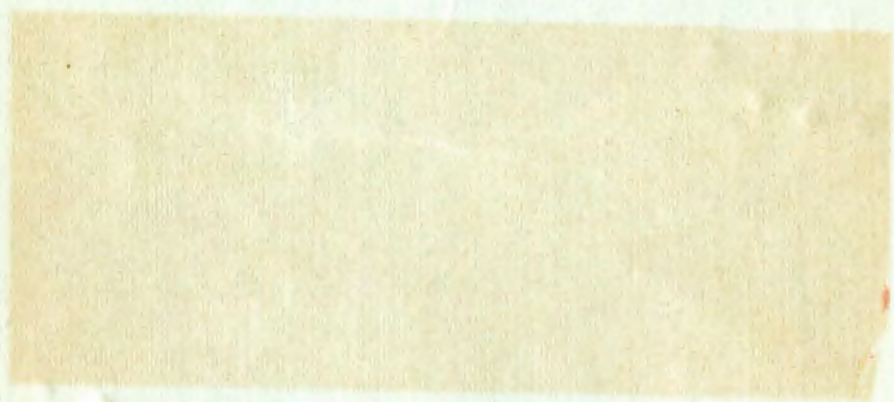
Evangelists vs. Elders

A Brief Sketch of the
Jamesport, Mo., Church Trouble

With Correspondence Relating to Same

TO WHICH IS APPENDED THE
**Written Opinion and Decree of Judge Arch
B. Davis, Trial Judge in the Case.**

BY P. H. LILLY.



Evangelists vs. Elder

A Brief Sketch of the Jamesport, Mo., Church Trouble

ERRATA

On page 10, for "Interruption" read "IRRUPTION."

On page 30, second column, at end of 6th line from bottom, insert "AS."

On page 31, first column, 16th line from bottom, for "Peaceable" read "PECCABLE."

Other minor errors can be readily corrected by the thoughtful reader.

Written Opinion and Decree of Judge Arch
B. Davis, Trial Judge in the Case.

BY P. H. LILLY.

A FORE WORD.

The purpose of this little Booklet is to give publicity to the facts pertaining to the origin, progress, and present stage of the trouble in Church of Christ, in Jamesport, Mo. It is not intended to be a full history of the case. To do this would require a volume instead of this little Booklet.

The nature of this trouble, and the prominence of those who incited it, and forced it upon the church, is such that the Brotherhood at large should be made acquainted with the facts in the case. In doing this I have been as brief as a clear presentment of the case would permit.

Much of what is presented, aside from the Court's Opinion and Decree, consists in the correspondence that passed between myself, as an elder in the Church, and those pushing the fight against me.

I bespeak for the matters presented in this little Booklet, a careful reading, especially by faithful disciples of Christ; and may the Lord give all such, understanding to judge righteous judgment, that they may place the blame for the destruction of the Church in Jamesport, Mo., where it rightfully belongs.

—P. H. L.

REMINISCENT.

The writer of this sketch, with his family, came to the town of Jamesport, Mo., in the year 1871. At that time he was in his 31st year; and in his 12th year as a disciple of Christ, having obeyed the Gospel under the preaching of Elder Martin Peterson, of precious memory, in the year 1859.

At that time Jamesport was a village of not more than one hundred inhabitants. It was situated on the line of a proposed railroad that was completed the same year (1871). The nearest church house of any kind at that time was two, or more miles away, known as "Ketron Chapel," owned by the M. E. church, South, which body of people were then in the ascendancy, in both the village and adjacent country.

After the railroad had been definitely located, and its construction assured, the village of Jamesport, then wearing the rather opprobrious name of "Jim Town," began to assume an importance, and activity heretofore unknown. It was at this crisis in the history of Jamesport that the writer, with his family, as before related, without money, prestige, or experience, came into the little community, with the purpose in view of acquiring a home.

At this time, besides the writer and his wife, there were only two other disciples living in the town; all of whom, either were, or had formerly been members of the old "Lilly Grove" congregation, some nine miles away.

The first meeting house in the town was built by the M. E. church. The work was begun in the autumn of 1871, and completed the following

year. Rev. O. Deshler, a preacher, and sweet singer in that church, was the immediate and active promoter of the work, and was largely instrumental in the successful completion of the building. The M. E. people generously allowed the free use of their house by other religious bodies, when not in use by themselves; and theirs was the only house of worship in town for several years following.

The first sermon delivered in Jamesport by a disciple, as I have been informed, was by Elder Benj. Lockheart, then living in Grundy county, Mo. He was passing through the town, and at the instance of Dr. G. W. Hutchison, remained over night and preached a discourse in the hotel of the town. This was in the late "fifties," some twelve years before the advent of the railroad.

The first protracted meeting ever held in Jamesport by disciples of Christ, was in the spring of 1875. It was conducted in the M. E. church house, by the illustrious Benjamin Franklin, of undying fame as a faithful gospel preacher. He came at the solicitation, of Dr. G. W. Hutchison, and the writer, and that too, without promise of remuneration. He did faithful and effective work, and was not allowed to go empty-handed away.

During this meeting three persons became obedient to the faith, and were immersed in a pool of water hard by the town of Jamesport. At this time there was no organized congregation of disciples in the town; yet the impetus given the cause of Christ by that meeting did not cease until one was established, some five

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT,

years later:

In the years following Benj. Franklin's meeting, when conditions were favorable, other preachers of less note were called to continue the work. These meetings were held in one or the other of the two church houses then in the town. Dr. Hutchison, and the writer, from necessity, and in harmony with I. Peter 5:1-3, exercised the oversight of those meetings, and largely furnished the financial support for the same.

As memory serves, the following named preachers held one or more meetings in Jamesport before an organization was effected, viz: Benjamin Franklin, C. A. Hedrick, W. S. Trader, W. H. Blanks and J. A. Meng, of the Old A. C. Review; and with him that sweet singer, Mason Summers, of pioneer days, then in the evening of his life. Even then in his old age he could sway and move an audience by the power and pathos of his singing. In these meetings there were occasional additions to the Church; but, while additions were made on one hand, other disciples would move away, and as a result, increase in numbers was slow.

In this way the work continued until the latter part of the year 1880. At this time a meeting was held in the house belonging to the M. E. church, South, by W. H. Blanks, who at the close of this meeting, assisted by W. C. Gillilan, and John Ballinger, elders in the church at Galatin, Mo., an organization was effected; at which time P. H. Lilly and Dr. G. W. Hutchison were selected and appointed to the responsible and difficult work of overseers of the little flock, then numbering, all told,

eleven members.

At the time the congregation was set in order, it was understood, and accepted without question, by its membership as fundamental that the Bible, and it alone, was the only rule of faith and practice; and to maintain this faith and doctrine intact, has been the constant aim of those to whom was entrusted the rule and oversight of the congregation, from that time until now.

The first effort of the new congregation to "sound out the word," was in the spring of 1881. Bro. A. C. McKeever, then of Chillicothe, Mo., came to Jamesport to assist the congregation in evangelistic work. This was faithfully and ably done, and two women of mature years became obedient to the faith, and others almost persuaded.

About this time the work of the M. E. church, South, had become so enlarged that they decided to use their house every Sunday, and it became necessary for the little band of disciples to secure a new meeting place. The M. E. church people generously granted the use of their house, when not in use by themselves, and this house became the temporary home of the church until it had built a house of its own, some three years later.

It was during the struggles and disappointments incident to those years without a permanent church home, that the need of one became so apparent that the little congregation began to consider ways and means, with the end in view of building a church home.

At this time the membership had increased to about twenty in number. Of these a goodly portion were young people almost wholly without means

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT.

to help in the good work. A few others with means scarcely above their immediate wants, and none with more than a bare competence. With such financial disability to hamper, it was with serious misgivings that the effort to promote the enterprise was undertaken. However, all had a mind to work; and it was this fact that gave impetus to the undertaking.

Having decided to build, it became necessary for someone, or ones, to take the initiative. This onerous work, as in the past, fell upon Dr. G. W. Hutchison, and the writer; not as a matter of choice, or self-seeking, but of necessity; for had they shunned the responsibility, the work could not, under existing conditions at that time (1882) have had a beginning.

In the month of September, 1882, Dr. G. W. Hutchison bought and paid one hundred and fifty dollars for a lot in the town of Jamesport, and had it conveyed by warranty deed to himself, S. H. Powers and P. H. Lilly, as "Trustees of the Christian church." Upon this parcel of ground the house was built; costing altogether, when completed, the sum of \$1,800.

In prosecuting this work, the greatest hindrance was a lack of funds; but for this, the building could have been completed within a few months; as it was, three years elapsed before the work was finished. At different times during the building period, Dr. Hutchison and the writer gave their joint personal note in borrowing money with which to prosecute the work.

It was in the month of August, 1885, when the little congregation,

with glad and thankful hearts, came together for the first time for worship in the new building. It was not yet completed, but was far enough advanced to permit its use as a meeting place. From this time forward, for a period of more than twenty-five years, the Church of Christ in Jamesport, Mo. continued to meet on the first day of the week for worship. As memory serves, the Church failed but three times in all those years to meet "to break bread;" and these three, because of unavoidable conditions.

The first series of evangelistic meetings held in the new house was conducted by Bro. J. K. Reed, then preaching for the Church at Gallatin, Mo., Under his labors at that time there were twenty-five additions to the membership of the congregation, largely by obedience to the Gospel.

After this meeting, monthly preaching by an evangelist, was given a trial. As a result of nearly two years' effort in this kind of evangelistic work, the Church found itself in debt, with an empty treasury; and aside from the first meeting of four weeks' duration, not a soul had been led to accept the Gospel.

The experience of the Church in the "monthly preaching" method of evangelizing was so discouraging and barren of practical results in reaching the people with the Gospel, that further effort in that direction was abandoned; and from that time (1888) until now, has never been resumed.

In the years that followed, evangelistic meetings were held from time to time, as conditions seemed to

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT,

demand, with varying degrees of success. The following named preachers have held from one to a dozen or more meetings in Jamesport: Daniel Sommer, A. Ellmore, A. I. Myyhr, A. M. Morris, G. B. Hancock, Wm. Grissom, A. C. Crenshaw, W. P. Gray, C. P. Hollis, Clayton Gall, J. A. O'Neal, T. L. Gray, Charley Owens, and many others, whose names I cannot now recall. Not one of these men was ever called for other than evangelistic work. The rule, oversight and feeding of the Church had, from the beginning, been in the hands of its eldership. For twenty-five years, there were always two, and a part of the time three men in the eldership; Bro. J. F. Jordin being associated with Dr. Hutchison and myself in the work, and between all of whom there was never a substantial disagreement in continuing the work. The relentless hand of death removed Bro. Hutchison and Bro. Jordin, leaving but one in the eldership. There are good and scriptural reasons why the vacancy was not filled, that I will not mention here.

With the exception of a few intervals, when innovators sought to control, there was peace and harmony in the congregation, until the trouble hereinafter set forth, arose.

The Church in Jamesport has, in the providence of God, been instrumental in bringing into the fold near two hundred souls, by obedience to the Gospel; and as many more came in by letter, or statement, and secured a Church home. During the years of which I am reciting, many have, one by one, drifted out "beyond the bar," into the ocean of eternity, to return no more. Many

others were dismissed by letter, and still others leaving without letters; so that at the beginning of the trouble, Jamesport congregation numbered about eighty-five souls. About seventy-five of these could be reckoned as active members. Out of these there was an average attendance on the first day of the week of about fifty disciples; and at that time, so far as I had knowledge, peace and christian fellowship prevailed. Such was Jamesport congregation in the month of May, and year of our Lord, 1909.

Some two years or more before the beginning of the trouble in the Jamesport congregation, a young preacher, named F. W. Gilbert, took up his abode in Jamesport. He was given a Christian welcome by the Church; and the most cordial relations with him existed, until the trouble in the Church had its beginning. He was fully acquainted with the manner and methods of the work and worship of the congregation before he came, and for more than two years seemed in perfect accord with the congregation. Occasionally, when without appointment to preach elsewhere, he would meet with the Church and engage, so far as any one knew, heartily in its services. On such occasions he was always given an opportunity to preach, and use as much time as he desired in addressing the church unto edification.

On all these occasions, appointment would be made for him to preach at night; and for such labor he was on every such paid the sum of ten dollars from the Church treasury.

In the spring of 1909 Daniel Sommer conducted a "Bible reading" at Braymer, Mo. F. W. Gilbert attend-

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT.

ed this reading. Soon after coming home he began to insist that it was right for an evangelist to preach at the hour of eleven o'clock in the meeting to "break bread. (This was a mis-statement of the issue. Such right had never been denied.) This was advocated among the brethren, and he soon secured a following among the inexperienced, and especially those not capable of discerning the deceptive character of his claim. The party thus formed soon refused to take any part in the Lord's day meetings, except to come and partake of the "Loaf and Cup," near the close of the service. F. W. Gilbert was not a member of the congregation, but as an evangelist, assumed authority over it, and became the active leader in the faction.

The next move of this man, Gilbert, was to call evangelist, T. L. Gray, of Barnard, Mo., one of the "Octographic Review" staff, to help him adjust the difficulty in the church in Jamesport. This was done without consulting any of the faithful members, or in any way recognizing them as having any rights in the matter at all. On account of the partisan action of T. L. Gray in coming at the instance of Gilbert, his work proved a failure insofar as doing good was concerned. However, before Gray left Jamesport, he and W. L. Arnold, one of our Deacons, who claimed to occupy a neutral position in the trouble, came to me and suggested that we mutually agree to send for Daniel Sommer to come, and if possible, adjust the difficulty.

At that time, knowing that Sommer had quite recently explicitly indorsed the workings of Jamesport congregation, and believing him to be fair-

minded and impartial, I gave my consent for him to come. In compliance with this agreement I mailed him the following letter:

Jamesport, Mo., July 24, 1909.

Daniel Sommer,

Indianapolis, Ind.

Dear Brother in Christ:—

"At the request of Bro. T. L. Gray and Bro. Arnold, one of our Deacons, also myself concurring, I write to ask if it will be possible for you to visit Jamesport some time in the near future and assist in adjusting a difficulty that has grown up in the congregation. The trouble arose over an attempt to force a change in our manner of conducting the service on Lord's day morning when assembled to "break bread." Our manner of conducting this service has been all the time, and is now, the same as when you were last with us, and indeed, for years before that time.

"My reason for this course always appeared to me to be eminently sound and scriptural. It is part of the work of scriptural elders to develop in the brethren, and especially the younger ones, the ability to stand up in the congregation and speak unto edification, teach, or exhort, and thus qualify them for future elders, Deacons, or evangelists, after the older ones have passed away.

"In order to accomplish this end we devote not over 15 minutes of the time of this meeting to this kind of work. Beginners, when they can do no more, are encouraged to read a few verses from the scriptures. This gets them on their feet, and starts a growth towards the end desired. Hence we have a number of scripture readings from different members

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT,

of the congregation.

"None are required to take part in this part of the service; but are only encouraged and given opportunity to do so. After this, should an evangelist or preacher be present, he is given an opportunity to address the congregation, upon any theme he may select that will edify and instruct, comfort or encourage the disciples assembled. Some of the most effective teaching ever received by the congregation has been done along these lines by visiting evangelists. It is not now, nor has it ever been our purpose to deprive a scriptural evangelist any right, privilege or courtesy that he is rightfully entitled to.

Nevertheless, there were a few in the congregation who murmured, and wanted a change. (Num. 21:5). F. W. Gilbert allowed himself to become the champion of the few, waged a fierce and bitter warfare against me as an elder in the congregation, and to the extent of his power, tried to force me from the position. In this he failed, because the better informed, and more conservative element in the congregation refused to endorse his course, but rather looked upon him as an intruder, he not being a member of the congregation. When this became apparent, Gilbert, of his own motion, called Bro. T. L. Gray to assist him in settling the difficulty. Bro. Gray came, and so far as I know labored faithfully and earnestly to restore order. The only thing lacking in accomplishing this, was in locating the responsibility for the trouble.

"Gilbert admits he was the cause of the division, but claims it was a justifiable one, and charges the sin and

wickedness of the schism wholly upon myself; while I disclaim all the responsibility for the schismatic course of F. W. Gilbert. Thus the matter stands and if it cannot be settled without my accepting responsibility for Gilbert's wicked and schismatic course, it never will be settled in this world. I write this that you may understand the nature of the difficulty. If you think you can accomplish good by coming, I will be pleased to have you do so. Your Bro. in Christ, P. H. LILLY."

At the time this letter was written I believed Danl. Sommer to be my friend and I addressed him as such. Our acquaintance and friendship had extended over a period of more than twenty years. When in Jamesport he always made my house his home, where he was always a welcome and honored guest. In October, 1907, during a meeting of weeks, and while in my home, he wrote a most commendatory article concerning the work of Jamesport congregation, and read it to me before sending it to the O. R. for publication. After mentioning serially the different parts of the Lord's day morning service, he sums up by saying:

"What is wrong with the order of exercises of which mention has just been made? Does it not cover all that can justly be claimed by those who wish to have the children specially taught? CERTAINLY IT DOES. Does it not likewise cover all that those can justly plead for who wish to see the talent of the Church developed in mutual teaching and exhortation? CERTAINLY IT DOES. Does it not allow the

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT.

Church to abound in the work of the Lord between ten and eleven o'clock, even as at all other time? CERTAINLY IT DOES. Does it not obey the scripture which commands that all who have ears to hear be permitted to hear? CERTAINLY IT DOES. Does it not attend to all the appointments of the Lord's house on the Lord's day? CERTAINLY IT DOES. Then why should not the churches of Christ everywhere adopt such an order of worship, or that which is similar, or will accomplish the same end?—(Octographic Review, November 5, 1907).

Not only was Daniel Sommer in harmony with the work being done in Jamesport, (if we may judge him by his words), but was opposed to any interference with the orderly workings of churches in general. Hear him:

"I never censure a church, nor try to change the order in a church, that attends to all the acts of worship in an orderly manner. I know the importance of forbearance, and the danger of disturbing a church. . . . Woe unto those who disturb a church and cause offences, except when the sacred text so requires. See Matt. 18:7. (O. R. Aug. 3, 1909).

Daniel Sommer is not alone in commending the work of Jamesport congregation. T. L. Gray, of the O. R. staff, had been at Jamesport in a meeting of two weeks' duration, and writes as follows:

"On April 24th I arrived at Jamesport, Mo., to assist the church in a meeting. It has been sorely tried, but with that man of God, P. H. Lilly, and a band of

noble workers to help him, it is like a city set on a hill whose light cannot be hid. The attendance and interest were good. There were six added during the meeting; four by relation, and two by obedience. This is a grand church to work with. It will make a man try to be better, to associate with such godly people. We were with this congregation one Lord's day during our meeting, and it was a feast to the soul, indeed. I never enjoyed a meeting more. The songs, the prayers, the scripture lessons, the exhortation, and the breaking of bread, were a spiritual feast. This congregation worships on every Lord's day alike; they do not dispense with any part of the worship because there is a preacher present. We spent two hours and fifteen minutes in the morning meeting and at the close we announced for preaching at 3 p. m., as we had no time for preaching in the forenoon unless we left out something that the Lord had commanded. This church is not opposed to preaching on the Lord's day, but it wants to do all that the Lord commands. I wish all churches would try and make the meetings on the Lord's day what they should be. (T. L. Gray in O. R. of July 18, 1907).

In March, 1908, Daniel Sommer conducted a meeting of two weeks with the church in Jamesport, and made my house his home. At its close he left with the most cordial relations existing between us. The Lord's day service was conducted precisely the same as when he had given it his hearty indorsement. He did not give the slightest intimation

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT,

that he disapproved our method of work. Shortly after the meeting he printed the following note:

"The church in Jamesport is in a hopeful condition. Bro. Forrest Gilbert lives there and his influence is for good at all times. The church at Jamesport is not afflicted with preacherisms, and in its regular meetings for worship generally observes I. Cor. 14:26, and is developing its young men. All other churches should do the same."

It was because of such expressions of approval, and such specific endorsements of my work in Jamesport congregation, that I so readily accepted the suggestions of T. L. Gray, and W. L. Arnold that we allow Daniel Sommer to come as an arbiter in the trouble.

THE INTERRUPTION OF SOMMERISM.

Some two days after mailing my letter inviting Daniel Sommer to come to Jamesport as an arbiter in the trouble, the O. R. of July, 27, 1909, came to hand. In "Notes and Annotations," I read the following:

"Churches sometimes have trouble with an elder, and don't know what to do in handling him. An experienced evangelist should be called to deal with elders. But elders ought to know enough to understand when they are unfit for office, and deal with themselves. Every elder who is regarded unfit for his position should be **KINDLY REQUESTED TO RESIGN**. If an elder finds himself, at any time, to be unfit for that position, then he should resign **OF HIS OWN ACCORD**.

For instance, if his wife becomes a slanderer, or his children become unruly, or if he cannot control his temper, he ought to resign. If he will not resign, he should be kindly requested to do so. If he will not do so, charges should be preferred against him. Then an experienced evangelist should be called and requested to try him. An elder who is "soon angry," is not more fit for the eldership than a liar, a thief, or a drunkard, is fit for membership in a church of Christ."

The scriptures that say: "Rebuke not an elder, but entreat him as a father," (I Tim 5:1), was wholly disregarded in this violent effusion. The whole "mess" breathes a spirit of evil that cannot dwell in, nor come from a clean heart. The presumptuousness displayed in giving instructions about "handling an elder" are both vicious and shocking. Coming as it did, in the midst of a violent attempt to force me from the eldership, I could not fail to understand that the article was directed against myself. Subsequent developments have demonstrated that my judgment in the matter was correct.

Having discovered that Daniel Sommer was directing the fight against me; and knowing that truth, justice and righteousness would suffer in allowing him to come into the trouble as an arbiter, I immediately wrote the following letter of recall:

Jamesport, Mo., July 28, 1909.

Daniel Sommer,
Indianapolis, Ind.

Dear Bro. in Christ:—

"O. R. of July 27th at hand. Since

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT.

reading your "Notes and Annotations" on first page, my eyes have been opened to the fact that a mistake was made in inviting you to come to Jamesport and help adjust a difficulty in the congregation. Because of this, I wish to recall the invitation, and earnestly request that you do not come.

"Any one who is so constituted that he can sit in judgment, and render a decision concerning the duty of elders and deacons without hearing both sides of the controversy, is not competent to render righteous judgment, even in the most trivial cases.

"Your 'Notes and Annotations,' as published, will do more to widen the breach, and hinder a righteous settlement of the trouble, than anything that has yet been done. Bro. W. L. Arnold, and Bro. T. C. Kindred, Deacons, concur in this recall.

Your brother in Christ,

P. H. LILLY."

In answer to the letter of invitation and before receiving letter of recall, Daniel Sommer writes as follows:

Indianapolis, Ind., July 28, 1909.

Dear Bro. Lilly:--

"Your letter has just been received. I regret more than words can express to learn the condition of mind in the church at Jamesport. Before your letter came I had written nearly all the notes on the question of order and worship which you will find in next week's "REVIEW." Until they will appear I trust you will all be as quiet and forbearing as possible. You will be pleased with my notes for next week. In hope and prayer,

DANIEL SOMMER.

P. S.

After the Brethren at Jamesport will have read my notes for next week I don't think they will need me. Besides my arrangements are made to go eastward, and I could not change them without doing a certain church serious injustice, and, perhaps permanent injury." D. S.

At the time the above letter was written, Daniel Sommer was not aware that his disguise had been penetrated. His regret at the condition of mind in the church at Jamesport should be largely discounted. He was into the trouble with "both feet," before my letter had been written. His mention and reference to his notes in O. R. show them to be there for the express purpose of advising and directing in the church trouble in Jamesport.

After Daniel Sommer's invitation had been canceled, it was the wish of some that another man be called to help in adjusting the trouble. Our two deacons and myself agreed to send for Bro. J. L. Black of Ottumwa, Ia. He was an entire stranger to all, but had been recommended as a suitable and qualified man for the work. Before he arrived, however, some of the faction wrote to the O. R. office for information concerning Bro. Black; and had been referred to W. G. Roberts, of Rippey, Ia., who is one of the O. R. staff. He reported that Black was an unworthy man; that he had been disfellowshipped, and had been reported in "some of our papers," and that he should not be allowed to preach. These evil reports were scattered broadcast throughout the town, and his power for good was destroyed before he

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT.

arrived. The Sommer-Gilbert-Gray faction refused to attend the meetings, or have anything to do with Bro. Black, and overwhelmed him with the false accusation already mentioned. As a result of such opposition, the effort to accomplish a good work, proved a disheartening failure.

As I was not allowed to see the Roberts' letter containing the charges, I wrote him and requested him to state what he knew about the charges against Bro. J. L. Black. I also wrote letters to five different congregations of faithful disciples in and around Ottumwa, where Bro. Black had lived, and labored in the gospel for more than twenty-five years, and inquired concerning his character and standing as a Christian man. The churches, without a single exception, warmly commended him as an earnest, conscientious and faithful Christian man and preacher of the "word."

When I, as a matter of common justice to all concerned, read these letters from the different churches commending Bro. Black, almost the entire factious element rushed out of the house to avoid hearing them.

W. G. Roberts replied to my letter of inquiry, which, in part was as follows:

Bay Minette, Ala., Nov. 8, 1909.
Dear Bro. Lilly:—

Your letter was forwarded to me at Loxley, Ala. Yes, the Brethren at Jamesport wrote to me to know if this J. L. Black, of Ottumwa, Ia., was the same Black that had been reported in some of the religious journals as being unworthy, or words in

substance. I wrote them it was the same Black. I have never met the man, but have corresponded with him some, and have heard a great deal, having preached in Ottumwa often.

"I told them that Black was not worthy, as he was not indorsed by the Brotherhood. He, I understand, is opposed to preaching on the Lord's day; advocates a special order of worship, etc., thus is a hobbiest of the worst kind. A man who will cause disturbance over such things should not be allowed to preach. A man who is inclined to "Lord it over God's heritage" should be set aside and no longer endorsed as an elder. Such men are not qualified for either place.

"Black was, I understand, disfellowshipped by the church of Christ in Ottumwa, Ia., right where he lives. I have heard both sides of the question. Your Bro. in the Lord,

W. G. ROBERTS, Rippey, Ia."
P. S.

"I mean that Black is opposed to preaching Sunday morning.—W. G. R.

The above letter requires but few comments. From personal knowledge I know that Bro. Black's position in reference to "preaching" is misrepresented. And, from reliable evidence in my possession, I believe that his character and standing as a Christian man has been slandered. According to W. G. Roberts' own written statement, he had never met Bro. Black, and does not really KNOW any thing about him; yet indirectly stabs his victim and shields himself behind the saving clause, "I understand," "I have heard a great deal."

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT.

Likewise, he does not make a direct charge against myself, but insinuates. He says, "A man who is inclined to Lord it over God's heritage should be set aside and no longer recognized as an elder." That sounded familiar. It was but an echo from Daniel Sommer's article in O. R. of July 27, 1909, in which he gave instructions to a faction in the church at Jamesport, Mo., about how to handle an elder. This article was a toxin for war. Daniel had spoken. "Tray, Blanche and Sweetheart sniffed the battle from afar." P. H. Lilly must be removed from the eldership. Nor did this coterie, composed of members of the Octographic Review staff, with Daniel Sommer in the lead, cease their onslaught, until the once peaceful and prosperous church at Jamesport Mo., was a pitious and distorted mass of ruins.

Daniel Sommer, peradventure, may have friends and supporters who will uphold him in such satanic work; and justice may never overtake him in this life; but certain as fate, he will surely have to answer at the bar of God for the ruin and desolation wrought in "Zion" by his lawless course in Jamesport.

At this stage of the difficulty, repeated offers were made to W. L. Arnold, one of the deacons, who was acting as a "go-between," to submit the whole matter to one, or more, competent and fair minded men, who could have no selfish interest in the case, other than a righteous adjustment of the difficulty. All these offers were rejected, and I was finally told that further efforts in that direction would not be considered.

Reports gained circulation that Daniel Sommer was coming to Jamesport,

to take the matter up. I earnestly protested against his coming and pointed out the fact that Sommer had, already, in his own mind, decided the case, and for that reason, could not righteously, act as an arbiter in the case. All of this, however, proved in vain.

On December 2, 1909, I received the following letter:

Farmersburg, Ind., Nov. 30, 1909.

Dear Bro. Lilly:—

"I did not answer your letter in which you withdrew your invitation for me to visit Jamesport and to consider the condition of the church there. Neither do I now intend to answer it, except to say that as I had been in Jamesport in two meetings within two years from the date of your letter, I had a fair opportunity to learn much of the condition of the church there, and don't think I should have been charged with partiality, or with "judging without hearing both sides." The recent developments have only been the outgrowth of conditions previously existing, and with those conditions I became quite well acquainted in the course of the two meetings that I have just mentioned.

"By reason of all that I learned, in the course of those meetings, from you and others, I may say to you that I had serious fears concerning the church over which you were presiding. To this I will add that, whether justly or unjustly, you are now regarded by many of that church as not the proper person to be in its eldership.

"Therefore, however innocent you may regard yourself of their charges, or however able you may be to de-

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT,

fend yourself against them, yet you cannot now serve the congregation acceptably, and thus serve to the building up of the church, nor even to maintain its existence. In view of all this I humbly suggest that you should resign your eldership, and do so in the most self-composed manner that you can, and with the least reflection on the church, or any part of it, that justice will permit.

“You have tried long and earnestly to serve the church in Jamesport, and have done what you regarded as the best in view of your duty as an elder; yet the time has come that your services as an elder are no longer acceptable, and you should resign your official position. If you will do this you will save yourself, and all who are specially concerned in your welfare, much grief. I am sure you will save Bro. T. L. Gray and me **A VERY UNPLEASANT DUTY.**”

“We have been requested, and even urged, by many in the church at Jamesport to help in settling the present difficulty there. We would gladly avoid doing so, but in the light of the scriptural duties of an evangelist, especially I. Tim. 5-19, we find ourselves authorized to hear charges against an elder. **BUT WE DON'T WISH TO HEAR ANY CHARGES AGAINST YOU;** especially do we not wish to fry them.

“With slight exceptions, you and I have not had any misunderstandings, and I have always been treated well by you in Jamesport. I suppose Bro. Gray could say the same, and perhaps more. Therefore we are both reluctant to visit Jamesport on the mentioned mission. **BUT WE**

CANNOT DISREGARD OUR DUTY. Therefore I entreat you to consider seriously what I say, and may the Lord enable you to see what you should do, is my prayer. Your Bro. in the Lord, **DANIEL SOMMER.”**

In October, 1907, Daniel Sommer commended the work of Jamesport congregation in the highest terms, as already recited, and left without the slightest intimation that he scented danger. In March, 1908, said “the church in Jamesport is in a hopeful condition.” In the above letter, without having been back, he says: “I had serious fears concerning the church in Jamesport.” If he had serious fears during these two meetings, as he now claims, it follows that he was an unfaithful evangelist in not pointing out the danger to the eldership. If his commendations were merited, then why should he condemn me now for continuing the work? Truly, the legs of the lame are unequal.

In reply to the above letter I sent the following:

Jamesport, Mo., Dec. 9, 1909.

Bro. Sommer:—

“Your letter of November 30, 1909, is before me. I will not attempt a formal reply. Judging from the spirit and tenor of your letter, anything I might say will have no bearing on the verdict you have already rendered against me. You say, ‘I don't think I should have been charged by you with partiality, or with judging without hearing both sides.’ In reply I will say, had not your article in O. R. of July 27, 1909, been conclusive evidence supporting the charge, your present letter confirms

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT.

the truth of the charges then made.

"Without a single charge having yet been preferred against me, (except such as you have indirectly suggested in O. R. of July 27th, and Oct. 19th), you assume that I am guilty of some undefined, and unproven misdemeanor, and fix the penalty, to-wit: that I resign my position as an elder in the congregation; else you and T. L. Gray, of the O. R. staff will come to Jamesport, 'hear charges against an elder,' and put me out.

"Under the administration of civil law a man is considered innocent, until proven by competent witnesses to be guilty; but in this case you adjudge me guilty without a single charge against me, and assess the penalty without even the semblance of an investigation. A more outrageous piece of injustice and lawlessness, than your course in this matter, is not on record.

"I am willing to meet any charge the church at Jamesport, or any part of it, may make against me, but I cannot meet a charge until one is made. After one, or more is made, I am justly entitled to have a fair, impartial and competent tribunal to conduct the hearing. And more than this, I have an unquestionable right to a voice in the selection of those who are to try the charges. All of these self-evident rights you arbitrarily set aside and propose to come to Jamesport at the bidding of a faction in the church, and conduct the hearing to suit yourself. This is spiritual anarchy, and cannot result otherwise than in evil.

"In all such proceedings the utmost fairness must prevail, without which we cannot hope for good to

result from them. You are a party to the trouble here; have been giving aid and encouragement to the faction here from the beginning, and are not the man to hear charges against me. I would have no more chance for a fair hearing, and just judgment at your hands, than a lamb would have for its life in a den of wolves. In your mind, my case is already decided, and you are only seeking to inflict the punishment. Besides this, there is not a single scripture that authorizes an elder to resign; neither is there scriptural authority for you, living in Indianapolis, Ind., to ask me, living in Jamesport, Mo., to resign. You have not been in Jamesport for more than two years. How, then, do you know that my services as an elder are no longer acceptable? I know that the best informed, most Godly and faithful members in the church at Jamesport, are urging me to maintain my position as elder. You are clearly trying to exercise authority over me that belongs to no man on earth. In conclusion, I beg you to re-consider your purpose in coming to Jamesport on your proposed mission of ousting me from the position of an elder, and allow this matter to be decided by impartial men. Your Brother Christ,
P. H. LILLY."

Some two days later I received the following communication:

Farmersburg, Ind., Dec. 9, 1909.
Dear Bro. Lilly:—

"I wrote you almost one week ago, but have not, thus far, received any response from you. I now write again, trusting that you will so seriously consider what I say that you and those who differ from you will settle

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT,

your differences without me. But if I do not receive word that a settlement has been made between you I shall, VERY RELUCTANTLY, start for Jamesport about the middle of next week, the Lord willing. Yet I wish to avoid so doing if possible.

"You are now at an age when most elders would do well to resign. I am not quite sixty years old, yet my purpose is to resign my work as editor of the REVIEW next spring and turn it over into the hands of younger men. My two sons, Fred and Austin, will take my place. I mention this as an evidence that I am not a "special pleader" who would make an exception in your case.

"That you have done much, in times past, by way of helping to save the church in Jamesport, all will admit who are acquainted with the facts in the case. But many other elders have done the same at other places, and then have damaged their work by holding to their official position too long. I do not wish you to be numbered with such, and therefore, entreat you to resign your eldership next Lord's day, if you have not already done so. I entreat you to do this for your own sake, and for the sake of all who feel kindly disposed toward you, especially for the sake of the name of Christ which you have so long endeavored to honor. Hoping to receive word from you early next week that all differences are settled in the church at Jamesport, I remain,

Your Bro. in the Lord,
DANIEL SOMMER."

To Sommer's letter of December 9 I made the following reply:

Jamesport, Mo., Dec. 11, 1909.
Bro. Sommer:—

"Your letter from Farmersburg, Ind., dated Dec. 9, 1909, just received. I am pained, but not surprised at the persistence with which you follow up your divisive work in the congregation at Jamesport, Mo. You say: 'If I don't receive word that a settlement has been made between you, I shall very reluctantly, start for Jamesport about the middle of next week.' The domineering and threatening manner in which you address me is, in itself, enough to forestall any serious consideration of what you say; besides it is utterly impossible to effect a righteous settlement, so long as you, and others like minded, are giving aid and encouragement to the 'faction' in the church here. It is idle to talk about a settlement while this condition exists.

"You say that, 'I am of an age when most elders would do well to resign.' I want to ask, how do you know this? Who authorized you to fix the age limit at which elders would do well to resign? These questions are especially pertinent, since there is not a word in the sacred scriptures about the age at which elders should resign; neither is there a word about their resigning at all. In this, you speak where the oracles of God do not speak, and assume the role of a lawyer. Such assumption of authority is but the out-workings of that mystery of lawlessness, that was at work in Paul's day. (II. Thess. 2-7).

"Again, you say you are not quite sixty years old, yet your purpose is to resign as editor of the "Review" next spring. You mention this as an evidence that you are not a 'special pleader who would make an except-

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT.

ion in my case' I reply that your resigning from the position of editor of the Review, and my resigning from the position of an elder in the church of Christ, are not parallel cases. The Review is purely a secular arrangement, from which you can resign at any time. The eldership is a divinely appointed work in the church from which there is not a single provision made for resigning. Your purpose to resign as editor is no reason why I should resign the position of elder in the church.

"I am aware of my increasing age, which you urge as a reason for giving up my work as an elder; but I will say to you that my age is not what troubles you. Your suggestion that I am too old is but a subterfuge, as you well know. You and others, with your agent here on the ground, have built up a faction in the church, whose purpose is to arbitrarily force a change in the manner of conducting the Lord's day worship. In order to accomplish this, you are willing to sacrifice me, and my thirty years of faithful service to the church I must be gotten out of the way at all hazards; quietly, by cajolery or threatenings if you can, but forcibly if you must.

I will confess that I fear your power; you may be able to break me down, and override all my rights and cast me out, but I had much rather be thus treated than to resign at your dictation.

Your Bro. in Christ,
P. H. LILLY."

The following protest was sent to Daniel Sommer, along with my letter to him of December 9, 1909.

Jamesport, Mo., Dec. 6, '09.
Daniel Sommer,
Indianapolis, Ind.

Dear Bro. in Christ:—We the undersigned members of the church of Christ at Jamesport, Mo., having full confidence in the ability, integrity, christian character and faithfulness to New Testament doctrine and practice of Bro. P. H. Lilly; and who has been an overseer in the congregation for the last thirty years, do now most solemnly and earnestly protest against the arbitrary, unscriptural, and unprecedented action you are now taking with the intent to oust him from his position as an elder in the congregation.

This protest was signed by thirteen names of the older members. A number of others signed it later. Near half the congregation refused to take either side in the controversy.

On December 14, 1909, I received the following letter from T. L. Gray. Dates and purport of which show collusion between himself and Sommer:
Dear Bro. Lilly:—

I have not heard one word from you since I left Jamesport last July and I did not know what turn matters had taken with regard to the church trouble. Last week I received a letter inviting me to be present at a meeting and be with Bro. Sommer and hear the evidence in the case. I am sorry to hear of this trouble, and I only wish you and the church could come to a perfect understanding and settle this and go on as before. I remember the many pleasant hours we have spent together, and we can spend many more.

You know I have always reported to you the conditions as I found

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT.

them and RESPECTED you as an ELDER of the church, and you and I could have continued together for all time without troubling any one. But I was made acquainted with the sad situation near about my first visit to Jamesport and on every occasion I have tried to calm the troubled WATERS.

But now I am called to meet you and the church and hear charges against you as an ELDER. This is painful to me, and allow me to SUGGEST THIS ONE THING. If the church don't wish you to serve as its elder any longer you resign and continue to work with them. If this is not done I fear the cause of Christ will suffer at Jamesport. I would not serve any congregation as its elder if a small number was opposed to me. I am sure of one thing and that is this, you cannot serve the church at Jamesport as elder with the CONSENT of the church. I don't say by this who is in the wrong. But if the church was called to call on some one to the eldership they would not call you. In view of the salvation of precious souls and the good of the church look into this and may God bless you, and remember that I have written this with love and the best of feeling for you. With love for you and your family, Your Bro. in Christ,
T. L. GRAY.

The following reply was made to T. L. Gray's letter:

Jamesport, Mo., Dec. 16, '09.
T. L. GRAY, Barnard, Mo.
Dear Bro. in Christ:—

Your letter of Dec. 11, 1909, at hand. I was aware of your coming to assist in forcing me from the eldership in the congregation at Jamesport, Mo., hence was not surprised at the contents of your letter. I de-

ny your statement that you have respected me as an elder. In times past, when in meetings here, you indorsed my work in the church; and now say, "You and I could have continued together for all time without troubling anyone." Had you "respected" me as an elder in the church, and had been a faithful evangelist, you would have told me of the sad condition you had become acquainted with, and helped to correct it. But you did nothing of the kind, and while endorsing my work, accepting my hospitality and receiving pay for your services as an evangelist, you withheld all the sad conditions you had discovered, and left, without a single word of warning. This kind of respect for an elder is very cheap, to say the least.

Again, you use the word "church" in a loose and misleading manner. The church in any given locality is composed of those who are living and walking humbly and obediently before God, whether they be many or few. With this idea of the church in mind. I can truly say that I am now, and have for thirty years past, been serving the "church" acceptably; and the church at Jamesport is willing and anxious for me to continue to serve.

I have not the least desire to serve as elder among any other class of people. But I would be recreant to the sacred trust imposed upon me as an elder, did I now in the hour of trouble and danger, "resign" at your dictation, and leave the faithful ones in the hands of "wolves" in sheep's clothing. It is the "hireling" that fleeth when the wolf comes and not the shepherd of the sheep.

Had you studied the scriptures as carefully as you should, you would

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT.

have known, that in all the scriptures there is not a word about elders resigning; neither is there a single instance recorded where an inspired Apostle, or evangelist, ever requested an elder to resign. For an evangelist to do so now, and thus transcend divine teaching, is vicious in principle, and dangerous to the liberty of the children of God.

I am aware that elders are human, and that it is possible for them to err. I am aware that charges may be preferred against them for wrong doing; but the whole tenor of the scriptures is that they are entitled to a fair and impartial hearing before a competent tribunal. Any other course than this comes from, and is prompted by a wicked and persecuting spirit. I trust you will be able to see the unfairness of forcing this matter upon me, in the manner you have outlined in your letter,

Your Bro. in Christ.

P. H. LILLY.

A few days later I received another characteristic letter from T. L. Gray. Here it is:

Barnard, Mo., Dec. 14, 1909.

Dear Bro. Lilly:—

I wrote you a few days ago, and said something that was based upon what I had been told by others of the developments at Jamesport since I was there in July. But since I came home I received another letter which give it a very different color. So what I said about your resigning as elder, and that the church would not CALL YOU to the ELDERSHIP NOW, was all BASED on what I HAD HEARD, which I thought was TRUE.

I write this to CORRECT what I said and beg your FORGIVENESS, and I will come to see you face to

face as soon as I can and talk this over. I fear that I have been wrongly informed of something which I will state in the proper time. WILL YOU FORGIVE ME THIS WRONG? Please write me at once,

Your Bro. in the Lord,

T. L. GRAY.

I can account for this letter in only one way. When Sommer received the protest against his proposed visit, his heart failed him, and he decided not to come, and so notified Gray; and in writing this letter Gray was only "hedging." Later Sommer decided to come, and so notified Gray, and he and Sommer arrived in Jamesport on the same train, and took command of the Sommer - Gilbert faction in the fight against me. Not knowing this at the time, I answered the letter in good faith as follows:

Jamesport, Mo., Dec. 17, 1909.

Dear Bro. Gray:—

Your letter of December 14th, is before me. Words cannot express my thankfulness to the Giver of all Good, and to you, for the change of heart expressed in your letter. It brought a little ray of light to my over-burdened heart. Your intimate acquaintance with me, and my work here, should have caused you to be more cautious than to act so hastily upon "hear-say" evidence. Nevertheless, I am rejoiced to know that something has occurred to open your eyes to the mistake you have made. Could you have been present to witness the ungodly conduct of the Gilbert faction in the church here, you would have been compelled to turn away from them in disgust.

Besides this, there are other things to be considered. Among those opposing the church here, more than half are "digressive;" remnants of

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT,

the old digressive organization that failed here some years ago; who, as a matter of course, and from principle, are opposed to me in anything I might do. And further, more than half of the remainder of the faction are wholly indifferent as to innovations in the church. You can easily guess the result in putting this class of men and women in the lead. I could say more, but this is enough for the present. I certainly will comply with your request, and gladly forgive the past. I am glad you felt constrained to ask forgiveness, because it shows a sincerity of purpose to do right, and deal justly in the matter, which will enable me to rely upon you as a sincere friend and Bro. in Christ,

Your Bro. in Christ,
P. H. LILLY.

A short time before Sommer's arrival in Jamesport on his lawless mission, the following note was handed me by the opposition. It shows they were trying, to the best of their ability, to carry out the instructions given them in O. R. From lack of familiarity with such "official" procedure, they failed to either date, or furnish signatures to their production. Here it is:

"Inasmuch as P. H. Lilly is soon angry, and self-willed, and Lords it over God's heritage, We the members of the Church of Christ at Jamesport, Mo., kindly ask him to resign the Eldership."

As the date drew near when Daniel Sommer was to appear on the scene of action, I realized the danger of trying to meet the approaching crisis alone, and without witness to the threatened invasion. So

I wrote to Bro. R. N. Gardner, of Odessa, Mo., and besought him to come to Jamesport, as an on-looker, and see what was done. He came at my solicitation and for no other purpose than I have stated.

As memory serves, Bro. Gardner arrived in Jamesport Wednesday, December 15, 1909, and was, as I now believe, the innocent cause of a noted telegram being sent to Daniel Sommer at Indianapolis: in substance as follows:

"New developments, come at once."

In response to this telegram, both he and T. L. Gray arrived in Jamesport on Friday night, December 17, 1909.

Next morning Bro. Gardner received a note from Sommer asking an interview. This was granted, at which time he was informed that he (Gardner) was not present with the intention of taking part in the proceedings. On two other occasions, at Sommer's request Bro. Gardner met and conversed with him, at all times refusing to take part in any formal proceedings.

On Saturday afternoon, December 18, Sommer and Gray, without invitation, or previous announcement, came into my store and personally began to push the work for which they came to Jamesport. Sommer produced a paper, and read it, which proved to be a proposition looking toward the calling of a mutually chosen tribunal, one of which be chosen by the accused, another by the accusers, and these two, chose a third, and the three to hear the charges that might be offered; both parties agreeing to abide by the decision of that tribunal.

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT.

At first thought, the proposition seemed to be fair, and I replied that I would consider it and report later. Thus far there had not been a single charge preferred against me. I had repeatedly been urged to "resign," but for what reason I had not been informed, except the indefinite suggestions printed in "Octographic Review." For this reason I asked to be furnished with a copy of the charges in full, and signed by all those making them.

During this interview, Sommer used all his persuasive powers to induce me to resign from the eldership. Failing in this he became emphatic, and threatening, and delivered the following ultimatum in language substantially as follows:

"So far, charges have been preferred against you in your official capacity only. Your christian character has not been assailed; neither will it be, if you resign, but if you do not resign you will be charged with falsifying, and your christian character impeached."

This threatening statement was heard by half a dozen reliable witnesses who were present.

The same evening I received the following note concerning my request for the charges against me:

"Bro. Lilly:—Your refusal to accept the proposition that we offered to you until you will have received the charges that you will have to meet written and signed by the members making them, is, in our judgment, unjust. If the proposition is fair, and you are not guilty of anything wrong, then you should not fear anything.

"A fair proposition cannot be af-

fectured by the kind of charges that will be made. Hence we regard your refusal as strictly technical. Yet we shall urge the brethren who have charges against you to offer them to you in due form at the earliest possible date.

DANIEL SOMMER,
T. L. GRAY."

After I had been, for weeks, harassed by letters from these men, urging, entreating, and exhorting me to resign, and after threatening to come to Jamesport and hear charges against me unless I did so, and after making good their threats, and were on the ground trying to arrange a tribunal to hear the charges; just why my demand to have the charges presented, and signed by those making them, should be "IN OUR JUDGMENT UNJUST," is inexplicable.

The most flagrant, and outrageous exhibition of injustice in this case is displayed, when these men, living hundreds of miles away, receive clandestine charges against me, and without investigation, or a single inquiry concerning my rights in the matter, render a verdict against me, and at once begin their efforts to enforce the decision rendered. Such action as this exemplifies the meaning of the word, "SOMMERISM."

In O. R. of October 19, 1909, Daniel Sommer gives directions about dealing with overseers who become "lords over God's heritage," and will not change from it. He says: "The charge that they have been acting the part of lords over God's heritage should be drawn up, and specifications should be arranged under it."

I quote this to show Daniel Sommer's directing hand in the James-

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT.

row evening at 7 o'clock at the house of worship of the Church of Christ in Jamesport to meet the charges against you as they have been preferred. In hope,

DANIEL SOMMER,
T. L. GRAY."

Jamesport, Mo., Dec. 20, 1909.
Brethren Sommer and Gray:—

Your note of December 19, 1909, received. The idea that the evangelists selected to hear the charges presented, and decide upon them is clearly stated in your proposition, and, that we whose names are appended to this agreement, agree to abide the decision of that tribunal' is also clearly stated. The purpose of that tribunal is to hear evidence that may be presented concerning my fitness for the position of an elder in the congregation and render a decision from which there can be no appeal. Such procedure is unscriptural.

All that any such tribunal can do, is to admonish the erring one, or ones, after which the church must act. In view of my repeated refusal to allow you and your colleagues to sit in judgment upon the charges against me and decide in the matter, I respectfully decline to meet you at the house of worship at 7 o'clock this evening, or at any other time or place. So far as I am concerned, this closes all efforts to adjust this matter with you and Bro. Gray,

P. H. LILLY.

The following note is in reply to above:

December 20, 1909.

Bro. Lilly:—

Your communication of this date is before us. In reply we state that our proposition to you does, indeed, provide, as you say, that certain evangelists shall hear the charges that may be presented and decide upon them. But it does NOT PROVIDE, as you said, that those evangelists shall "declare what" the guilty one, or ones, "shall do" in any measure or degree.

Therefore, we again state that you have refused to accept that proposition by reason of an objection to something that is not in it. In other words, your objection is founded upon an IMAGINARY BASIS.

We regret the course that you have pursued. But as we have proposed to meet tonight at the house of worship intended for the church of Christ in Jamesport, we kindly request that you will send to us the key to that house, or have some one to unlock it for our meeting this evening. In hope,

DANIEL SOMMER,
T. L. GRAY.

In response to request to open the house, the following reply was given:
Bros. Sommer and Gray:—

The Church of Christ at Jamesport, Mo., is in lawful and peaceable possession of its church house, and forbid its use for the purpose of your proposed meeting.

P. H. LILLY, Trustee.

In addition to this I will state that I had at the time in my possession "Power of attorney to act for the only other living trustee for the prop-

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT,

erty." The purpose of this meeting was unlawful. Sommer and Gray were no part of the church in Jamesport, and had no authority to call a meeting for any purpose. In a scriptural sense they were usurpers, acting without authority either human or divine. The church in Jamesport had not called them for any purpose whatever, but on the contrary, had earnestly protested against their coming at all.

On account of their arbitrary and lawless course, they were refused the use of the church house. Notwithstanding this refusal, the house was broken open, when they, with a few of their factious followers, went in and held their meeting as announced.

What was said and done in this meeting was afterwards disclosed by the testimony of W. L. Arnold (one of the plaintiffs in the case) in a preliminary deposition taken before Esq. L. M. Lewis, of Jamesport, Mo., a synopsis of which is here given:

M. A. Scott, et al, plaintiffs.

vs.

P. H. Lilly, et al, defendants.

W. L. Arnold, of lawful age, being duly sworn upon his oath states:

Q. Are you a member of the Jamesport congregation — the church of Christ at Jamesport?

A. Yes, sir.

Q. How long have you been a member?

A. About six years.

Q. Do you remember when Sommer was here in December?

A. Yes, sir.

Q. What day did he come on?

A. I believe it was Friday evening.

Q. Were you present at the services on Sunday morning?

A. Yes, sir.

Q. Was there any meeting Monday afternoon?

A. Yes, sir.

Q. At what hour?

A. About the usual hour, 7 o'clock or 7:30.

Q. Where was it held?

A. In the church.

Q. Was the church open for that meeting?

A. It was open, yes—don't know who opened it.

Q. Was that the night they broke in?

A. Yes.

Q. Who broke in?

A. Don't know.

Q. Were you present at the time?

A. I was about the church.

Q. How long were you in the church before it was called to order?

A. Expect about ten minutes.

Q. Who were present at the time the meeting was called to order?

A. I don't believe I can name all.

Q. As many as you can?

A. Daniel Sommer, T. L. Gray, F. W. Gilbert, H. E. Bond, S. W. Cropper, Wm. Peaslee,

Q. Who else?

A. Wade Hampton.

Q. Were all the wives of these members present?

A. H. E. Bond and wife, Hampton and wife, Cropper and wife, Peaslee and wife, Arnold and wife, Maggie Thompson and Mrs. M. D. Mayhugh.

Q. Who else?

A. Don't remember now, Mrs. S. C. Busby, not certain but think Jas. Robertson was there.

Q. Anybody else?

A. There was more there, but can't call their names.

Q. Who called the meeting to order?

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT.

A. Daniel Sommer.

Q. Who presided?

A. Daniel Sommer.

Q. What was the object of the meeting?

A. The object of the meeting was stated by Daniel Sommer and T. L. Gray, and after that by agreement Sommer presided on the different specifications of the charges; called on nearly all the members to know what they knew about it and what their evidence would be.

Q. You say Gray took the evidence—asked the questions and Sommer wrote them down?

A. Yes, sir.

Q. Did the parties giving the evidence sign the statement?

A. No, sir.

Q. But each made a statement?

A. Yes, sir.

Q. After that all was done, what next?

A. That was about all that was done. Sommer and Gray talked over the evidence and found by the evidence the party was guilty of the charge.

Q. Then Sommer and Gray acted as judges?

A. Yes, sir.

Q. After it was in, Daniel Sommer and Gray withdrew to one side to talk it over?

A. Yes.

Q. By themselves?

A. Yes, sir.

Q. Where did they go?

A. Got away from the congregation about two feet and consulted together.

Q. How long?

A. A few minutes.

Q. When they came back, what did they say?

A. They said they had found by

the evidence that the party was guilty of the charges submitted, or something to that effect.

Q. What else was done?

A. Don't think there was anything else said. Talked about what should be done. I think the notice was written out for P. H. Lilly—am not sure.

Q. What notice?

A. The notice telling him of the proceedings; cannot say if it was written there or after they left there.

I will now quote some of the evidence given in this so-called trial, as recorded by Daniel Sommer. The real character of the man is partly revealed in this contemptible work.

First Specification—

"He is soon angry."

SISTER H. E. BOND testified, saying: "On a certain Lord's day morning a brother was here from Nettleton. Bro. Lilly was teaching a class. There was some disturbance, and Bro. Lilly said he would have to have order, and closed his book and slammed it down on the bench and said he would sing a song, though the lesson was not more than one-third considered.

"On another occasion I went to his home and asked him for his scripture for cutting out preaching. He referred me to Acts 20: 7. That did not satisfy me, for it mentions preaching in connection with the worship, and I thought it was against him. He became angry and said that I might take the church and run it myself, if I was not satisfied with his course."

SISTER PEASLEE testified, saying: "Several years ago we

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT.

row evening at 7 o'clock at the house of worship of the Church of Christ in Jamesport to meet the charges against you as they have been preferred. In hope,

DANIEL SOMMER,
T. L. GRAY."

Jamesport, Mo., Dec. 20, 1909.
Brethren Sommer and Gray:—

Your note of December 19, 1909, received. The idea that the evangelists selected to hear the charges presented, and decide upon them is clearly stated in your proposition; and, that we whose names are appended to this agreement, agree to abide the decision of that tribunal is also clearly stated. The purpose of that tribunal is to hear evidence that may be presented concerning my fitness for the position of an elder in the congregation and render a decision from which there can be no appeal. Such procedure is unscriptural.

All that any such tribunal can do, is to admonish the erring one, or ones, after which the church must act. In view of my repeated refusal to allow you and your colleagues to sit in judgment upon the charges against me and decide in the matter, I respectfully decline to meet you at the house of worship at 7 o'clock this evening, or at any other time or place. So far as I am concerned, this closes all efforts to adjust this matter with you and Bro. Gray,

P. H. LILLY.

The following note is in reply to above:

December 20, 1909.

Bro. Lilly:—

Your communication of this date is before us. In reply we state that our proposition to you does, indeed, provide, as you say, that certain evangelists shall hear the charges that may be presented and decide upon them. But it does NOT PROVIDE, as you said, that those evangelists shall "declare what" the guilty one, or ones, "shall do" in any measure or degree.

Therefore, we again state that you have refused to accept that proposition by reason of an objection to something that is not in it. In other words, your objection is founded upon an IMAGINARY BASIS.

We regret the course that you have pursued. But as we have proposed to meet tonight at the house of worship intended for the church of Christ in Jamesport, we kindly request that you will send to us the key to that house, or have some one to unlock it for our meeting this evening. In hope,

DANIEL SOMMER,
T. L. GRAY.

In response to request to open the house, the following reply was given:

Bros. Sommer and Gray:—

The Church of Christ at Jamesport, Mo., is in lawful and peaceable possession of its church house, and forbid its use for the purpose of your proposed meeting.

P. H. LILLY, Trustee.

In addition to this I will state that I had at the time in my possession "Power of attorney to act for the only other living trustee for the prop-

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT.

would consult several of the brethren about remunerating evangelists."

SISTER ARNOLD testified: "That on a certain occasion when many brethren were present she heard Bro. Lilly say, 'The storm is about over and they will all come back.' Many of the members had been staying away on account of Bro. Lilly's conduct."

SISTER BOND testified that: "Bro. Lilly does not call on any of the congregation to announce a song."

BRO. ARNOLD testified that: "Bro. Lilly has urged several of the brethren to take part in the exercises."

BRO. SCOTT (principal plaintiff in the case) testified saying: "I have not been here all the time. But in the three years I have only heard him present three questions to the church, namely: the roofing of the house, the sidewalks and the sending of money to Palisade, Nebraska."

The next morning after this exhibition of SOMMERISM, I received the following communication, evidently written the same night:

Jamesport, Mo., Dec. 20, 1909.
Bro. Lilly:—

"You are hereby informed that at our meeting tonight we examined witnesses and heard testimony on the charges and specifications which have been preferred against you. We found that the testimony, in our judgment, was sufficient to prove all the specifications, and, therefore, that the general charge was sustained. We expressed our decision in a formal manner to the audience

then assembled. Then the question was asked: 'Does anyone know any scriptural reason why Bro. Lilly should not be deposed from his official position?' As no such objection was given, you were declared deposed and your eldership declared vacant. Your personal relation to the church and privileges as a Christian remain unchanged. In hope,

DANIEL SOMMER,
T. L. GRAY."

This "Popish Bull" is another exemplification of what is meant by the term, "SOMMERISM." The proceedings in this farce show that Sommer and Gray had everything under their control. They called the meeting, and conducted the hearing to suit themselves. They rendered the decision, and declared the eldership vacant, and gave me notice over their own personal signatures of their action. The judgment rendered is that of Sommer and Gray, and not that of the church. The church of Christ in Jamesport, as an organization, had nothing whatever to do with the lawless work. It was wholly the work of a schism, in the church, created and manipulated by Daniel Sommer, and his staff of helpers.

A few days later I received the following notice, which I quote "verbatim et literim."

Jamesport, Mo., Dec. 25, 1909.
Brother P. H. Lilly and Family:—

"You are cordially invited to attend the services at the Church of Christ at Jamesport, Mo., this evening at 7 o'clock p. m. Also after the services there will be a business meeting, for the pur-

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT.

pos of electing trustees.

Yours respectfully,

Per W. J. PEASLEE,

Per H. E. BOND."

This meeting for the election of officers was held as announced. Sommer came from his "Bible reading" at Nettleton, Mo., to conduct the work. Our meeting house was again broken open, and at this meeting three deacons, a treasurer and a clerk were chosen. Three trustees to hold the property were elected. No elders were chosen. On December 29, 1909, I was approached by three of the Sommer appointees, who demanded of me the key to the church house, money in the treasury, and other property belonging to the church. This I refused to do, for the reason that they had no scriptural authority or right to make the demand. On the same day F. W. Gilbert came to Jamesport from the Nettleton Bible reading, and in the evening in the midst of our regular prayer meeting service, took the floor and brought the charge of "insubordination to the officers of the church" against me. He then proceeded to put the question of withdrawal of fellowship on the charge. Objection to such action was made at once. Gilbert refused to yield the floor until some of his own party suggested that he allow the objections to his proposed action to be publicly stated.

Bro. J. A. O'Neal, of Purdum, Nebr., then briefly reviewed the unscriptural action of Sommer and Gray in all they had done, and showed that the Sommer appointees were wholly without authority to demand custody of the property. All of these objections were overruled by Gilbert, and decided to be unscriptural. He

then declared me excluded from the church.

This meeting was one of violence and disorder. I was not allowed to speak in my own behalf on the question of my exclusion. One of the Sommer appointees rushed to the front where I was standing, and ordered me to "sit down," vociferating, "I am an officer." That the plan for my exclusion from the church, had been pre-arranged at the Sommer Bible reading then being conducted at Nettleton, Mo., there can not be a reasonable doubt. After Gilbert had finished his program he resumed his seat, and sneered, and laughed at my helplessness.

The whole procedure was that of violence and lawlessness, without a semblance of authority of any kind, save that of the "thug" or assassin. Thus ended one of the most violent, wicked and disgraceful affairs ever held in Jamesport, by any professing to be a religious and law-abiding people.

On the following Saturday evening I was handed the following communication:

Jamesport, Mo., Dec. 31, 1909.

P. H. Lilly, Dear Sir:—

"In behalf of those disciples who do not regard you as a member of the church of Christ in Jamesport we address you in regard to your offer of compromise with them. In their behalf we are authorized to say, that your offer in that direction is not accepted. "The olive branch of peace," on the basis of compromise, was offered to you in the considerate manner in which you were treated last Wednesday night a week ago; also on last

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT.

Lord's day. But after those occasions you showed yourself disposed to regard our offer with contempt and made your exclusion from the church necessary. And, now, the time for compromise is at an end, and will thus remain until you will have repented and been restored to the church in due form. Even then we shall not feel at liberty to propose nor accept any compromise which will imply that the church of Christ in Jamesport is formally divided.

"This lamentable condition of affairs might have been avoided if you had only regarded Acts 20: 7 in its most evident meaning, or had heeded the entreaty of one of your best friends. But you would not do either. On the contrary, you acted the part of a lord over Gods' heritage in Jamesport, holding all the offices in the church except a nominal deaconship, and trying to manage the church to suit yourself. Besides, you have called to your aid unworthy counselors.

"We intend the services tomorrow shall be conducted without your assistance, and any effort on your part to take a leading part will be regarded as out of order, and will be dealt with accordingly,

Respectfully,

DANIEL SOMMER,
F. W. GILBERT."

Upon receipt of this communication, the end sought by Sommer and his party was fully disclosed. They had already, as they thought, disposed of me, and now, their purpose was to take possession of the house, for

which not one of them ever paid a dollar in building, and hold it for their own use and benefit, regardless of the rights of those who had built and paid for the property.

There was but one course left to those who owned the property, and that was to maintain actual possession of same. In order to do this it became absolutely necessary to close the house against Daniel Sommer and his factious following. Accordingly the following notice was posted on the door:

January 1, 1910.

NOTICE.

"In view of existing disorder and lawlessness in the faction assuming and claiming to be the church of Christ in Jamesport; and in view of the arbitrary and unscriptural course of said faction in assuming to excommunicate, expel and deprive of their rights and privileges as members of the congregation worshipping in this house for twenty - seven years past: I, as one of the grantees in said deed conveying the same acting for all the grantees in said deed, and still having control of the property, do hereby give notice that this house is, and will remain closed until the matters in controversy be legally, and scripturally determined."

P. H. LILLY, Trustee.

Past experience with Daniel Sommer and his following, led me to believe that ordinary locks and fastenings on the church house would not be respected. On two former occasions they had entered the house by violence, and I had reason to believe would do so again. In order to prevent this, and to protect the church

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT,

in its legal rights, I, as legal custodian and trustee of the property, together with another good brother, as witness, remained inside the building until the danger of forcible entrance was past.

By this demonstration, Daniel Sommer discovered that he could not gain possession of the property, by his game of intimidation and bluff. He then decided to adopt legal measures, and led his dupes into a suit at law for possession of the property. This suit would never have been commenced, had it not been for Sommer. He was the moving and controlling spirit in all the preliminaries leading up to the filing of the suit, as well as chief manager and director for the plaintiffs through the whole disgraceful affair.

It was sought by injunction proceedings to restrain me from interfering in any way with their use and control of the house; and to compel me to turn over to them all money in the treasury, communion set, books and records belonging to the church.

The case did not come up for trial until the May term of circuit court held at Gallatin, Mo., in 1910. The case was tried before Judge Arch B. Davis, of Chillicothe, Mo., judge of the 36th judicial district. A more fair and impartial hearing never was held anywhere. This was the general verdict of many wholly disinterested people who attended the trial.

The plaintiffs in the case were represented by A. G. Knight, of Trenton, Mo., and Mr. R. J. Britton, of Gallatin, Mo. The defendants were represented by Col. Boyd Dudley, of Gallatin, Mo., and Mr. J. H. Lawson, of Altus, Okla. Non-resident wit-

nesses for plaintiffs were Daniel Sommer, editor of Octographic Review, A. M. Morris, of Winfield, Kans., T. L. Gray, of Barnard, Mo., F. W. Gilbert, of Purdin, Mo., and Floyd Edwards, of Nettleton, Mo.

Non-resident witnesses for defendants were: Wm. Cobb, of Bedford, Ia., D. J. Poynter, of Albion, Nebr., R. N. Gardner, of Odessa, Mo., J. A. O'Neal, of Pardum, Nebr., and Dr. T. G. Phelps, of Chillicothe, Mo.

After the issues were joined, nearly four days were consumed in hearing the evidence in the case. The proceedings were conducted upon a high legal plane; nevertheless, to any faithful child of God they were humiliating indeed.

At the close, Judge Davis announced that he would withhold his decision at that time, and appointed Bro. T. C. Kindred, the senior deacon in the congregation, to be provisional elder, and have charge of the house, and conduct the services, until a final decision was rendered. Bro. Kindred, under the instructions of the court, filled his unique position as faithfully as he could under existing conditions.

The case was argued before Judge Davis by A. G. Knight for plaintiffs, and Col. Boyd Dudley for defendants, at the December term of court, 1910.

The final opinion and decree in the case was handed down by Judge Davis at the February term of court, 1911, which is published in full in this Booklet.

I. TIM. 5:19.

Daniel Sommer quotes this scripture authorizing evangelists to try charges against the overseers of a congregation, and to depose them from their official position. Such application of this scripture would establish an ec-

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT.

clesiastical government of the church, with evangelists in the lead as ruling power. This would be incipient Popedom.

The teaching of I. Timothy 5:19, "against an elder receive not an accusation" applies to all old men in the church as a class without reference to any official position they might hold. The Greek word "PRESBUTEROS," from which we have the word "elder," primarily means an old man, or old men. All scriptural overseers are old men, but all old men are not overseers. The context usually shows the class of men referred to. "The elders that rule well," I. Tim 5:17, indicates that overseers are meant, while "Rebuke not an elder but exhort him as a father," I. Tim. 5:1, shows that an old man is referred to. It is a safe rule to class all elders as simply old men, unless the context forbids it. Paul's teaching was, that old men should be treated with consideration on account of their age. Timothy was prohibited from receiving an accusation against an old man, except at the mouth of two or three witnesses. Old men, no matter what their position in the church may be, are peaceable, and sometimes commit sin. When this is established by conclusive evidence, Paul's instruction to Timothy is: "Then that sin reprove in the sight of all, that the rest also may be in fear." I. Tim. 5:20. Old men, whether they be overseers or not, have the same right to repent and be restored as that of any other member; but if they refuse to repent, and persist in a sinful course, it then becomes the duty of the church to disfellowship them.

An overseer who is thus disfellowshipped, is deprived of his official

position, at the same time. There is no other scriptural way to deprive an overseer of his official position in the congregation of which he is a member. Official misconduct is just as sinful in the sight of God as unofficial misconduct. An overseer who is guilty of such sinful action, cannot be deposed from his official position by a tribunal of evangelists, and then, without repentance, or confession of wrong doing, be retained in the church in good standing. This, to any one who has a modicum of scriptural knowledge, is self-evident. Yet such is precisely the course pursued by Sommer and Gray, in their lawless work at Jamesport. Their action in this case is not justified by I. Tim 5:19, nor by any other scriptures; and cannot be fitly described by any other term than that of SOMMERISM.

ACTS 20:7.

The charge that I have not regarded this scripture in its most evident meaning, (see Sommer's letter of December 31, 1909), is not true. I have considered this scripture carefully, and prayerfully, from every conceivable point of view. Its most evident meaning is, that it was a meeting for the edification of the disciples at Troas. This scripture justifies no one in making the meeting to "break bread" an evangelistic service, to which the world is invited to hear the gospel. Such practice is an unwarranted change in the divinely appointed purpose of this meeting.

No one can show from the scriptures that any but disciples were present in the meeting at Troas. Paul remained a week at Troas that he might join with his brethren in this commemorative service; and used the

A REVIEW OF THE CASE OF THE CHURCH OF CHRIST AT JAMESPORT.

occasion to edify and confirm the church as was his wont. Acts 15:41.

The meetings to "break bread" in Jamesport congregation have for years been conducted along the same lines, and for the same purpose. Would to God that all preachers and evangelists would follow Paul's example when visiting the churches.

And more than this; Daniel Sommer and T. L. Gray have both at different times within the last six years, visited Jamesport congregation and engaged in and witnessed the workings of the church, gave it their most hearty endorsement, and publicly advised others to do likewise.

These men cannot now accuse me of not regarding Acts 20:7 in its most evident meaning without stultifying their own veracity.

That I have acted the part of a lord over God's heritage, is a false accusation. I have never been guilty of such conduct, as I am able to specifically show. The only real ground for this false charge is that I could not concede the right of an overseer to conduct the teaching in the congregation, and allow an ill-informed and unqualified part of the membership, the greater part of which was women, to direct the same. It is the bounden duty of overseers to overrule any such demands. To disallow this is to take the ruling out of the hands of overseers, and place it in the hands of the congregation. Where this rule obtains there is not the slightest use or need for scriptural overseers; and such congregation has lost its identity as a church of Christ.

There is much more that might be said concerning the origin and progress of the Jamesport church trouble, but I forbear. Suffice it to say; the church of Christ in Jamesport is in

ruins.

Dani. Sommer and T. L. Gray have both been in Jamesport quite recently (March 15-18, 1911). The purpose of their coming was unknown except to those who attended the private receptions given them while here. That their work was evil is shown by the fact that since their visit the lines of ever before since the beginning of division are more tensely drawn than the wicked and disgraceful affair.

Written Opinion in Church Case

By Hon. ARCH B. DAVIS.

In the circuit court of Daviess county, Missouri, February term, 1911.

M. A. Scott, et al., plaintiffs,

vs.

P. H. Lilly, et al., defendants.

This controversy arises by reason of a division in the Church of Christ or Christian Church at Jamesport. It is a contention for supremacy and for control of the church property by two different bodies of the membership of the church.

The action is one in equity, wherein plaintiffs, who sue individually for and on behalf of themselves and other members of the church, aver that they, the plaintiffs, M. A. Scott, W. L. Arnold and H. E. Bond, are the trustees of said church; that W. L. Arnold, H. E. Bond, S. B. Cropper and Wade Hampton are deacons of said church, in connection with one T. C. Kindred.

The object of the action is well set out in the prayer of plaintiffs' petition and is that "defendants, together with all their associates, confederates, agents and representatives may be perpetually restrained and enjoined from entering said (the church) property, managing or controlling the same, or from interfering therewith, or from interfering with or molesting the plaintiffs, the pastors, elders, deacons, church members, or other ecclesiastical agencies who adhere and recognize the said Church of Christ at Jamesport in the use, enjoyment, possession and exclusive control of its house of worship and premises, its records and treasury, their emblems and communion sets, or other property or effects which belong to said church, or are held in trust for it; and that he defendant P. H. Lilly, be required to restore to the duly elected treasurer the monies and funds of said church, which he now holds and also to restore to the clerk of said church the title, papers, records, books, emblems, communion sets and other ef-

fects belonging to such office and officer, and to convey the title of said property to such trustees as the church may direct; and for such other or further relief, judgments and decrees as to the court may seem just and proper."

The defendant, P. H. Lilly, by his separate answer and cross bill, after setting up his version of this unfortunate controversy, prays that plaintiffs' "bill be dismissed and that this court, by its orders, judgments and decrees, forever enjoin and restrain the plaintiffs and their associates from interfering in any manner with this defendant and his associates, the true Church of Christ at Jamesport, in the worship of God as it has always been conducted according to the fundamental faith and practice of said church and further that said plaintiffs and their associates be perpetually enjoined and restrained from interfering with said church building or any property belonging to said Jamesport congregation and in the hands of the defendants herein, and for general relief."

The answer of the other defendants is substantially a reiteration of the answer of the defendant, Lilly.

T. C. Kindred, who both sides recognize as one of the duly appointed deacons of said church, was made a party to the action in the original petition, but by an understanding between the parties, and because he was willing to abide by whatever judgment this court might render, was dismissed out of the action and is not now a party thereto.

OPINION AND DECREE.

A full statement of the various contentions, as set forth in the pleadings, it is not necessary to here set out. While I do not deem it wise or necessary to make any extended statement of the facts proved during the nearly four days consumed in hearing the evidence on the trial of this cause, still a brief statement of the

**

WRITTEN OPINION IN CHURCH CASE BY HON. ARCH B. DAVIS.

facts may not be amiss and will serve to show why I have arrived at the conclusion hereinafter stated.

All of the parties to this litigation are members of the Christian church, or Church of Christ at Jamesport. The church is an unincorporated religious society of the Christian denomination, congregational in its form of government, its officers of which are the bishops or elders, and deacons, and when "set in order," manages its own affairs and has no higher ecclesiastical tribunal to which it may appeal in regard to its religious affairs or the management of its property. The form of government is monarchical. No member of the church, other than the officers, has any voice in the management of its affairs or any vote thereon.

The church was organized some years ago by defendant, P. H. Lilly, and one Geo. W. Hutchison, since deceased, their respective wives, and some seven others. But it has grown, by the addition of new members, until there was at the time of this trial something like seventy or eighty members.

The church has no constitution or discipline or rules for church government other than the New Testament, which must and does furnish the rules for its organization and church government, as well as its faith, practices and forms of worship.

The bishops or elders have charge of the administration of the spiritual affairs of the church and, while Jesus Christ is recognized as the King, he manages the spiritual affairs of the church through the bishop or elder. The deacons have charge of the temporal affairs of the church property. The officers of the church are appointed for no specific length of time and after having been appointed seem to hold for life, unless removed in some manner recognized by the law.

When this church was organized, the defendant, P. H. Lilly, and Geo. W. Hutchison, were appointed elders or bishops. They constituted the sole elders until the death of Dr. Hutchison some years ago, and after that

time defendant Lilly continued to be the sole elder in the church and still is, unless he was removed by the proceedings hereinafter referred to.

Plaintiff Arnold and T. C. Kindred have for several years been the duly appointed and qualified deacons of said church.

The church property, control of which is here involved, consists mainly of the northeast quarter of block 13, Nathan Gillilan's addition to Jamesport, and the church house thereon situate. This real estate was on September 7, 1882, conveyed to defendant, P. H. Lilly, and to Geo. W. Hutchison and S. H. Powers, as trustees for said church. It appears from the evidence that the purchase price for said real estate (one hundred and fifty dollars) was contributed by Geo. W. Hutchison, that thereafter the church building was erected thereon by money raised by voluntary contributions made by the various members of the church, the amounts of which and by whom contributed I do not deem material to this controversy. For the property belongs to the church, and the trustees in said deed named are simply holding the legal title thereto in trust for the beneficial use of all members of the church, who are faithful to its doctrines, without regard to whether or not such members may have contributed to the money used in the purchase of the lot or erection of the building thereon.

The rock, upon which the members of this church split, was as to whether or not they should have preaching, when an evangelist was present, at the eleven o'clock hour on the Lord's day, the controversy being as to the proper construction to be placed on the seventh verse of the twentieth chapter of Acts, which is as follows:

"And upon the first day of the week, when the disciples came together to break bread. Paul preached unto them, ready to depart on the morrow; and continued his speech until midnight."

Defendant Lilly and his associates

WRITTEN OPINION IN CHURCH CASE BY HON. ARCH B. DAVIS.

contend that a proper construction of this scripture required that at this service, the evangelist, if present, should take his place among the disciples, and should speak or teach as a disciple, although if the evangelist so present desires to do so he may speak from a text, assuming a position in the pulpit and speaking as long as he may choose, being called upon by the elder after the other disciples had participated in the mutual exhortation service, which it was usual to hold at that hour.

While the plaintiffs and their associates contend that when an evangelist is present he should be permitted to preach a regular sermon at the eleven o'clock service.

Neither, however, believed in having a regular preacher or that one should be paid any regular salary or otherwise than by voluntary contributions.

This controversy as to the form of the services, from a small beginning several years ago, assumed large proportions and became very acrimonious, and has engaged the attention of leading evangelists of the Church of Christ throughout the Middle West. While in the local church many of the members arrayed themselves against each other, although, I am glad to say, a goodly number seem to have taken little or no part in the controversy.

The church has never had a regular evangelist or preacher. At its first organization, it appears from the evidence that when an evangelist was present he would teach or preach, but whether as a disciple or preaching a regular sermon is not very clear, although it is the contention of the defendants that, except when noted evangelists were present, the evangelist took his place as a disciple.

Much testimony offered at the trial was devoted to an attempt by each side to prove that their respective constructions of the foregoing passage of scripture are correct. Several witnesses, of high standing in the church and of national reputation as evangelists, enlightened the court with their respective views on the

matter, and defendants' counsel, in an exhaustive, learned and instructive brief undertakes to show that plaintiffs and their associates have departed from the faith of the church, as it has always existed in this particular church, and that they have, by taking the position that a regular sermon should be preached when an evangelist is present, seceded from the church, and that, under a well settled rule of law, where a part of a congregation, even a majority, depart the faith, those who cling to the original faith constitute the true church, even though they may be in the minority as to numbers.

Under the view that I take of this case it is not necessary to pass upon this question. Although my views are that the rule is that, before the court will hold, upon a division in a church, that there has been a departure from the faith by either one of two conflicting bodies within the church that the court must find, First—That there is a division arising out of a difference in religious faith or belief on some of the cardinal doctrines of the church. Second—It must find that one of the bodies has departed the original faith or doctrine of the church, and that where the court finds both conditions existing then it will hold that the branch of the church, even though a minority, that clings to the original faith, is the true church. But where there is no change in the belief, teachings or practices of the church, affecting its fundamental doctrine, where the substance is retained, even though the manner and form of expressing it is changed, the court will hold that there has been no departure from the faith. *Russie v. Brazzell*, 128 Mo., 107.

In *Smith v. Pedigo*, 44, N. E. 1. c, 364, citing *Watson v. Jones*, 13 Wallace 679, it is said:

"There are many minor differences of opinion as to religious duty and practice among the members of the same denomination, and even of the same church, upon which the confession or articles of faith are silent; for instance, the property

WRITTEN OPINION IN CHURCH CASE BY HON. ARCH B. DAVIS.

of attending balls or dances, playing cards, washing each others' feet, maintaining musical instruments in public worship, and the like, which differences ordinarily furnish no ground for a charge of desertion of faith."

As I view it, the question of preaching at the Lord's day service is a matter of expediency, not of faith or fundamental doctrine, and so, in my opinion, the weight of the evidence shows. In a church having a democratic form of government, in which all have the right to vote, the decision of the majority on such a question should rule. But in a church like this, it is a matter, according to some of the evangelists, including Reverend Sommer, for the decision of the bishop or elder; and while Reverend Sommer now disagrees with Mr. Lilly, he in the *Octographic Review* of November 5, 1907, in an extended article describing the form of worship as practiced at this church, said: "Then, why should not the churches of Christ everywhere adopt such an order of worship, or that what is similar, or will accomplish the same end?" This was written after he had been with the church in an extended meeting.

However, I do not deem this question material in settling the controversy, because, in my opinion, this is a division in the church, a fight for control within the church, rather than a secession by the members from any of its fundamental doctrines.

Plaintiffs base their right to maintain this action upon the allegation in their bill and the evidence offered in support thereof, that defendant Lilly, has been removed as an elder or bishop in the church and as a trustee of the church property, and also as a member of such church, and that they have been duly elected officers thereof.

Under the practices of this church, as well as of other churches of Christ, when a church of this denomination is organized it is "set in order" by the evangelist who organized it, by the appointment of

elders or bishops, and deacons. When it becomes necessary to appoint a new elder or deacons, if there be an elder of the church, the elder in office appoints the new bishop or elder, subject only to the rights of members of the church to offer scriptural reason why the appointment should not be made.

If no sufficient scriptural reason be offered, then the appointment stands as made. But when there is an elder in office, no other officer of the church, and no member thereof is authorized to make an appointment of an elder or deacons. Under this practice, so long as Mr. Lilly remained in the office of elder of the church, in him alone was vested the power of appointing additional elders or deacons. It appears from the evidence that plaintiffs and their associates, recognizing this rule, understood that before they could have a new elder who would place their construction on the seventh verse of the twentieth chapter of Acts, and before they could secure control of the church property, it would be necessary to secure either the resignation or removal of Mr. Lilly as an elder of the church.

It is in evidence that sometime previous to the happening of the events hereinafter referred to, by which it was sought to depose defendant, Lilly, as an elder, the plaintiffs or some of them and those who entertained similar views, began an effort to secure his removal as an officer of the church. An effort was made to secure his resignation as an elder, but this the defendant, Lilly, declined to give, assigning as a reason that there was no scriptural authority for an elder's resigning his office.

Matters culminated in Daniel Sommer, of Indianapolis, Ind. and T. L. Gray, of Barnard, Mo., evangelists, coming to Jamesport, at the instance of those members of the church who were opposed to Mr. Lilly, for the purpose, apparently, of obtaining either the resignation or removal of Mr. Lilly from the eldership. Having failed to secure his resignation, they proceeded to try

WRITTEN OPINION IN CHURCH CASE BY HON. ARCH B. DAVIS.

him, for the purpose of removing him as an elder, upon the following charges:

General Charge:

"He is not fit for the eldership of this church."

Specifications:

1.—"He is soon angry."

2.—"He is self willed."

3.—"He acts the part of a Lord over God's heritage in Jamesport."

The trial was held on December 20, 1909, in the house of worship, but defendant, Lilly, refused to attend the meeting or to participate therein, and most of the members of the church who were present appear to have been adherents of plaintiff's side of the controversy. The trial was held, not before the church, but before Daniel Sommer and T. L. Gray, evangelists, who acted as judges, but who were not members of this particular church. Defendant was by said evangelists found guilty of such charge. The evangelists, after announcing the decision, finding him guilty, asked: "Does anyone know of any scriptural reason, why Brother Lilly should not be deposed from his official position?" None being offered, he was by said evangelists declared deposed and the eldership declared vacant.

Thereafter, on December 25, 1909, part of this church, although there is no evidence that any general call to the members had been issued for that purpose, and although many members of the church were not present and had not been notified of the purpose of the meeting, proceeded to the election of the new officers of the church, the plaintiffs here, except W. L. Arnold, who was already a deacon.

Defendant Lilly refusing to recognize the new officers of the church, the following charges were preferred against him at a prayer meeting held in the church house on the 29th of December.

General Charge:

"Insubordination in refusing to submit to his brethren as the latter part of First Peter, chapter 5, verse 5, requires."

Specifications:

1.—"In refusing to give up the treasury of the church to the treasurer chosen by the church."

2.—"In refusing to give up the church records and other church papers to the clerk selected by the church."

3.—"In refusing to give up the keys belonging to the church property to a trustee selected by the church."

Of these charges defendant had no previous notice. Neither does it appear that members of the church were notified that a trial was to be had. At this time he was declared guilty and dropped or excluded from membership in the church; and on January 1, 1910, Daniel Sommer and F. W. Gilbert, evangelists, addressed to Mr. Lilly a letter in which they say, in part:

"We address you in regard to your offer of compromise. We are authorized to say that your offer in that direction is not accepted. The olive branch of peace on the basis of compromise was offered you in the considerate manner in which you were treated last Wednesday night a week, also on Lord's day. . . . The time for compromise is at an end and will thus remain until you shall have repented and been restored to the church in due form. . . . This lamentable condition of affairs might have been avoided if you had only regarded Acts 20:7; in its most evident meaning. . . . We intend that services shall be conducted without your assistance and any effort on your part to take a leading part will be regarded as out of order and dealt with accordingly."

Upon receipt of this notice defendant, Lilly, locked the church house and posted a notice on the door thereof to the effect that the house would remain closed until the matters in controversy could be legally and scripturally determined. Whereupon this suit was brought.

As I view my duty, under the law and the issues made by the pleadings in this case, it becomes my duty in this case to pass upon the valid-

WRITTEN OPINION IN CHURCH CASE BY HON. ARCH B. DAVIS.

ity of these church trials and the validity of the election which followed the first trial, for upon their validity rests the solution of this case. If Mr. Lilly remains an elder of the church, then the election of plaintiffs as officers, as alleged in the petition, is invalid and this action cannot be maintained. While, on the other hand, if Mr. Lilly was deposed as an elder and the election of the plaintiffs was valid, then they are entitled to maintain this action.

I know that in some decisions the right of civil courts to determine the jurisdiction of ecclesiastical tribunals has been questioned and doubted. But the true rule seems to be well expressed in the following quotation from *Landrith v. Hudgins*, 120 S. W. (Tenn.), 1. c., 815:

"But where a right to property is asserted in a civil court, based upon the supposed action of a church organization, it is the duty of the civil court to determine for itself whether the act relied on was the act of the church, or of some body or collection of persons within the church having no power under the church constitution, the contract binding all, to take such action. This proposition was in substance maintained and enforced in *Bouldin v. Alexander*, 15 Wall, 139, 21 L. Ed., 69, and other authorities cited."

Substantially the same rule is announced in the following Missouri cases: *Prickett v. Wells*, 117 Mo., 1. c., 504; *Fullbright v. Higginbotham*, 133 Mo., 1. c., 677; *Boyle v. Roberts*, 222 Mo., 1. c., 648, and cases cited. On page 650 in the last named case the supreme court of the state says:

"In the investigation of property rights, the civil courts will investigate and see that the church judiciary has acted, and if so, whether it has acted within the terms of the constitutional grant of power. If beyond the constitutional provisions of the church, the act will be declared void."

Numerous cases are cited in support of the proposition.

The conduct of the trial before the ecclesiastical tribunal in ordinary cases is to be conducted in the manner prescribed in the constitution or by-laws or discipline of the society or congregation; but where, as here, the church organization has no rules regulating the trial or expulsion of members, those of the common law prevail, and before an officer will be deposed or a member expelled notice must be served upon him to answer the charges made against him and an opportunity offered to make his defense. Without such notice and opportunity the trial is void. 34 Cyc. 1190.

In addition to the notice of the charges and opportunity to be heard, I think it may be well said that the person to be tried is entitled to a fair trial before an impartial church judiciary, and that the member is entitled to be fully and fairly informed of the charge and to be fully and fairly heard thereon before an impartial tribunal. The courts recognize the proceedings as a judicial one. *Canadian Religious Assn v. Parmenter*, 62 N. E. 740. See also note to *Gray v. Christian Society*, 50 Am. Rep. 315.

The question, as far as church trials are concerned, has, so far as I know, not been squarely determined in this state, but a somewhat similar question arose in *State, ex rel, v. Adams*, 44 Mo. 570, and, in that case, our supreme court said:

"It is essential in every case that charges be made and trial be had, that the accused be notified and have a full opportunity for defense. The matter must be decided judicially and fairly, and if against the accused he may then apply to the courts for redress. If it is there found that the corporator or officer has had a fair opportunity for a hearing in his society, that the charges against him were sufficiently and fairly proved, he can have no further relief, but otherwise he will be restored to all his rights." (Citing authorities.)

The court quotes Judge Daggett in *Fuller v. Academy*, as follows: "Can

WRITTEN OPINION IN CHURCH CASE BY HON. ARCH B. DAVIS.

such removal be made without sufficient specific charges and passing upon them judicially? I am satisfied that the question must be answered in the negative." Further in the opinion, it is said:

"The law guards the rights of corporators, and, through them, the rights of all interested in the uses of the corporation, with the same jealousy as other property. A fair and open trial is our instinctive demand, and is imperatively secured. The foundation, the distinguishing feature of a free government, is embraced in the spirit of that great provision—the corner stone, as it were—of the English and American constitutions, that no one can be deprived of life, liberty, or property, except by due process of law. Such process involves a judicial investigation, with every safeguard for a full and fair hearing, according to the form and governed by the rules that control all other similar investigations."

If this be the rule in secular matters, how much more should it be the rule in ecclesiastical trials?

Passing for the present the question as to whether or not Reverends Sommer and Gray, as evangelists, had any jurisdiction to try Elder Lilly upon the charges, find him guilty and depose him from eldership, and passing for the present the sufficiency of the charges filed, I am satisfied that Rev. Sommer was disqualified from sitting as judge and that his state of mind, as evidenced by his letters and as confirmed by his testimony given at the trial, shows that he had determined in his own mind before he came to Jamesport that Mr. Lilly would have to be removed from the eldership of this church.

On July 27, 1909, there was published in the Octographic Review a communication from Rev. Sommer, which has every appearance of being particularly applicable to the case of Mr. Lilly, especially in view of the fact that this trouble in this church was becoming acute at that time, and there does not appear to

have been any other occasion for its publication. In part that article said:

"Churches sometimes have trouble with an elder and do not know what to do in handling him. An experienced evangelist should be called to deal with the elder if he will not resign, he should be kindly requested to do so. If he will not do so, charges should be preferred against him. Then an experienced evangelist should be called and requested to try him."

On November 30, 1909, Rev. Sommer, in writing to Mr. Lilly, relative to the troubles at Jamesport, among other things, said:

"The recent developments have only been the outgrowth of conditions previously existing and with those conditions I became quite well acquainted in course of the two meetings that I have just mentioned. By reason of all that I learned in the course of those meetings, from you and others, I may say to you that I had serious fears concerning the church over which you were presiding. You are now regarded by many of that church as not the proper person to be in its eldership. You cannot now serve the congregation acceptably. I humbly suggest that you should resign your eldership. The time has now come that your services as an elder are no longer acceptable, and you should resign your official position. If you will do this, you will save yourself and all who are specially concerned in your welfare much grief. I am sure you will save Brother T. L. Gray and me a very unpleasant duty. We are both reluctant to visit Jamesport on the mentioned mission, but we cannot disregard our duty."

And this notwithstanding that at the conclusion of his last meeting he had in the "Review," asked: "Why should not the churches of Christ everywhere adopt such order of wor-

WRITTEN OPINION IN CHURCH CASE BY HON. ARCH B. DAVIS.

ship," as was being practiced by Elder Lilly.

To this Mr. Lilly replied, under date of December 9th, protesting against Reverend Sommer trying him, saying in part:

"Under the administration of civil law, a man is considered innocent until proven by competent witnesses to be guilty, but in this case you adjudge me guilty without a single charge against me and assess the penalty without even the semblance of an investigation. . . . I am entitled to have a fair, impartial and competent tribunal to conduct the hearing, and more than this I have an unquestionable right to a voice in the selection of those who are to try the charge. . . . In all such proceedings the utmost fairness must prevail, and without which we cannot hope for good to result from them. You are a party to the trouble here . . . and not the man to hear the charges against me. I would have no more chance for a fair hearing and a just judgment at your hands than a lamb would have in a den of wolves. In your mind my case is already decided and you are only seeking to inflict the punishment. . . . I beg you to reconsider your conclusion in coming to Jamesport on your proposed mission to cast me out of the eldership, and allow this matter to be decided by impartial men."

On the same date Rev. Sommer addressed a letter to defendant, Lilly, stating in part:

"If I don't receive word that a settlement has been made between you, I shall very reluctantly start for Jamesport about the middle of next week, the Lord willing . . . You are now at an age when most elders would do well to resign. . . . I entreat you to resign your eldership next Lord's day, if you have not already done so . . . for your own sake and for the sake of all who feel kindly disposed toward you."

On December 5th, a number of the members of the church forwarded to Rev. Sommer a protest against "the arbitrary, unscriptural and unprecedented action you are now taking to oust him (Lilly) from his position as an elder in the congregation." Twenty names are on the one offered in evidence, although Mr. Sommer says the one he received had but thirteen thereon.

Rev. Sommer testified that Messrs. Arnold and Kindred wrote him that they, too, had joined in recalling the request for him to come to Jamesport. This is not all, but it is sufficient to show that the right of Rev. Sommer to act as a judge in the trial of Mr. Lilly was challenged not only by defendant, Lilly, but by a respectable number of the members of the church. But Mr. Lilly, refusing to resign the eldership, someone—doubtless one of the members of the church—telegraphed to Rev. Sommer, as he testifies, "Recent developments make your presence (or 'demand your presence.') Come." In response to that telegram he came.

His testimony shows that he had then made up his mind that it was either a question of the removal of Mr. Lilly as an elder or the breaking up of the church. He says, in one part of his testimony the reason he came to Jamesport was on account of these letters which he had received from Mr. Lilly, protesting against his coming, he knew, would ruin any church that he would preside over. Again he says that, "There was nothing left to be done except to depose defendant or the church would be ruined." In another part of his testimony he says: "I knew that unless he was put out of his official position, the church would be ruined." Being in that frame of mind Rev. Sommer would doubtless have made a good prosecuting officer, but was disqualified from being a trial judge.

When defendant was finally notified of the contemplated trial before Revs. Gray and Sommer, he advised them, "In view of my repeated refusal to allow you and your colleague to sit in judgment upon the charges

WRITTEN OPINION IN CHURCH CASE BY HON. ARCH B. DAVIS.

against me and decide in the matter, I respectfully decline to meet you at the house of worship at seven o'clock this evening or at any other time or place."

I am, under all the evidence, satisfied that Mr. Lilly didn't have such a trial, before such a tribunal as is contemplated by the law or by the scriptures.

All of the parties to the transaction recognized that a trial was imperative before he could be deposed, and that he would have to be found guilty of charges, or that he would continue as elder. All recognized that he could not be removed except for cause and after a trial. If a trial was necessary and if cause must have existed for his removal, then there must be a competent tribunal to pass upon the guilt or innocence of the accused. He should not have been compelled to go to trial before a judge who had already concluded that either he would have to be deposed or the church be ruined.

Another evidence of this bias is contained in the letter of Revs Sommer and Gray of December 18th. in which, in reply to a request from Mr. Lilly, demanding to know what the charges were, they say: "Your refusal to accept the proposition that we offered you until you have received the charges 'that you will have to meet, written and signed by the members making them,' is, in our judgment, unjust." Why the trial judges should conclude that the desire of a person charged with an offense to know who his accusers were and what they accused him of, was an unjust request is inconceivable in a court of justice.

It also seems to me to be a little unfair that a man should be placed upon trial before a tribunal chosen solely by his accusers, although Mr. Lilly kindly offered to try the charges before Rev. Gray, one of the evangelists thus chosen, and before Rev. Gardner, another evangelist. The tribunal that tried defendant were not chosen by the church. The judges were not members of the church and no action had been taken by the

church, as such, calling them. It is true that some of the members of the church were present at the trial, but they appear to have been there in the capacity of witnesses or spectators rather than to participate in the trial. But it could not be called a church meeting for the reason that the evidence shows that many members of the church were not notified of the meeting. Neither was it a regular or stated meeting.

It has been held that the action of a religious society, in removing its officers and electing new ones is invalid when done at a meeting of the society, the call for which did not contain a notice that such matters would come up before it.

Canadian Religious Assn., of North Brookfield v. Parmenter, 52 N. E. (Mass.) 740.

If that be the correct rule, and I believe it to be, then the action of that part of the church which had assembled on the night of December 25th, in proceeding to elect officers without a notice to all the church members that that would be their purpose, is void.

I am also inclined to doubt the sufficiency of the charges upon which he was placed on trial. (See State ex rel v. Walker 68 M. A. 1. c., 114. At any rate, he was not charged with doing the acts that, under the evidence, had caused the difficulty in the church.

The evidence shows that the controversy between the elder and the plaintiffs and their associates had been as to preaching at the Lord's day service. Now the charges were not filed against him that he had violated any tenet, doctrine, rule or principle of the church in regard to preaching at the eleven o'clock hour on the Lord's day or that he had, in his government of the church on that question, been guilty of malfeasance in office. It would seem, from the testimony of Rev. Sommer, that no such charges could have been filed against him, because Rev. Sommer says that the matter of preaching at the Lord's day service "is a matter of discretion and judgment of the el-

WRITTEN OPINION IN CHURCH CASE BY HON. ARCH B. DAVIS.

der," that "that is his division of the work." This being true, he could not be charged with any wrong doing on account of his insistence or conduct in that regard.

It seems to me that the charges could hardly have been more indefinite and uncertain than those filed in this case before the evangelists. They are:

General Charge:

"He is not fit for the eldership of this church."

Specifications:

1.—"He is soon angry."

But it is not shown when, where or under what circumstances he was "soon angry." It seems to me that this charge should have advised the defendant with what particular offense of being "soon angry" he was expected to meet, when it occurred, or something should have been set forth therein advising him upon what he would be expected to produce evidence.

2.—"He is self willed."

But when, where or in what respect is not set out. It would seem that some such quality is necessary in an elder: "Moses led the Children of Israel forty years and never yielded to them once, but Aaron could not be trusted with them forty days," apparently because he was a compromiser. (Daniel Sommer in Octographic Review, November 1907).

3.—"He acts the part of a 'Lord over God's heritage in Jamesport.' "

The evidence shows that it is the duty of the elder in this church to oversee, teach and rule the church in spiritual matters, and if he had exceeded the authority conferred upon him by the scriptures and practices of the church, something should have been set out in the charges, showing when, where or under what circumstances, so that he might be prepared to meet such charge.

There is also a serious question of the jurisdiction of any evangelist, not connected with the church, to try an elder. It is claimed that this authority is conferred by the nineteenth verse of the fifth chapter of First Timothy, which reads: "Against an

elder receive not an accusation, but before two or three witnesses." It is contended that this means two or three evangelists may hear the trial and determine the charges against an elder. The new version is: "Against an elder receive an accusation, except at the mouth of two or three witnesses;" and some of the decisions seem to indicate that the "witnesses" referred to does not mean the trial judges, but the accusers.

But, if as contended by plaintiffs, this does authorize the trial of an elder by evangelists, it would seem that the next verse prescribes the punishment that they are authorized to mete out, which is not removal from office, but "Them that sin rebuke before all, that others also may fear," or as the new version has it, "Them that sin reprove in the sight of all, that the rest also may be in fear."

The case of Long v. Harvey, 177 Pa. 473, 34 L. R. A. 169, seems to be in point on this proposition. That was a controversy between different elements of the membership of a church of the Disciples of Christ, and a portion of the church, with the assistance of elders and a clergyman from another congregation, undertook to depose the old officers and to elect new ones. It was held that their act in so doing was void; and the court quotes Rev. Daniel Sommer, as an authority in the church, as saying:

"As each family is a separate government by itself, so is each congregation. No other family on earth has right to come and dictate to me and my family, and no other congregation has the right to come in and dictate with reference to the affairs of the congregation where I hold membership."

Speaking of calling in members from other churches, and quoting Rev Sommer again, it is said: "Among religious people who are strictly congregational in their church government, there is no authority in any tribunal that may be thus selected, especially a tribunal chosen by only

WRITTEN OPINION IN CHURCH CASE BY HON. ARCH B. DAVIS.

one party," as were Rev. Sommer and Rev. Gray in this trial, "That decision of such a tribunal may have a moral weight, but it has no legal authority. There is nothing official about committees, even if mutually chosen."

In the course of the opinion, it is indicated by the court that a controversy such as this must be settled by the church itself, without the aid of elders, clergymen or others from other congregations. It is said:

"A majority of the church organization may direct and control church matters consistently with the particular and general laws of the organization or denomination to which it belongs, but not in violation of them."

Again;

"In the exercise of such a high authority as was attempted here, parties must point us to a clear, 'Thus saith our church law.' We are of the opinion that the meeting of the 25th of June was wholly without authority to depose the old officers or to elect new."

It is then said that the majority may obtain the rights of a majority:

"By exercising them as members of the congregation, and as the majority for more than sixty years has exercised them
.. if peace among members of a Christian church be impossible, then courts are open to wronged members, as members, and such remedy as the law warrants will be afforded. But the courts cannot sustain wholly unlawful attempts to right even wrongs."

As to the so-called church trial by which it was attempted to expel defendant, Lilly, from membership in the church, what I have already said probably conclusively disposes of that proceeding. That was an expulsion without any pretended trial. No previous notice was served upon the defendant; no opportunity to prepare for trial was given him. None of the acts were done by the prosecutors which the law and the practices of the church require to be done to exclude one from membership therein.

I conclude that it was absolutely void.

It is my conclusion that defendant, Lilly, remains, as he was before, a member of the church; that each of the plaintiffs and their associates and of the defendants and their associates are all members of the church of Christ at Jamesport; that plaintiffs who claim their respective offices by reason of the election on December 25, 1909, were not properly or legally elected; that defendant, P. H. Lilly, is the elder of said church; that plaintiffs, Arnold and T. C. Kindred, are the deacons thereof; each with the full power of performing all the duties pertaining to his respective office under the practice of this church; that all the parties to this action, as well as all members of the church of Christ at Jamesport, are entitled to exercise their rights as members, the same as though the so-called church trials had never taken place.

But of course this judgment and finding should not be construed as precluding any future trials within the church, if the members deem such trials advisable, provided they be conducted in accordance with the requirements of the law and the rules of the church; and the judgment herein rendered shall not be construed so as to prevent any such trials, the validity of any such trials as might be had, being left to be determined in a further action, if the validity thereof be questioned.

However, on account of the nature of the litigation and of the wide range of the evidence at the trial, it is my opinion that the defendants should pay that part of the court costs incurred by them or at their instance, including their witness fees and mileage; that the plaintiffs shall pay that part of the costs incurred by them or at their instance, including their witness fees and mileage, and that as to that part of the court costs, if any, which it cannot be determined at whose instance it was made, each should pay one-half.

Upon the whole case, I find:

That P. H. Lilly is now the only

WRITTEN OPINION IN CHURCH CASE BY HON. ARCH B. DAVIS.

duly appointed elder of the Church of Christ, or Christian church, at Jamesport; that plaintiff, W. L. Arnold, and T. C. Kindred, are the duly appointed and acting deacons of said church; that the title to the aforesaid church property is vested in defendant, P. H. Lilly, and in S. H. Powers, as trustee, for the benefit of said church, holding merely the naked title, the real and beneficial title being in the church.

That plaintiff, M. A. Scott, W. L. Arnold and H. E. Bond are not the trustees of said church property and not entitled to exercise or perform any duties as such.

That H. E. Bond, S. B. Cropper and Wade Hampton and all other persons who were on or prior to December 20, 1909, members of church in good standing, as well as those who have since been admitted to membership therein, are now entitled to all the rights and privileges of members of said church.

That the church property aforesaid should and must be kept open for church purposes, and all of the members of said church are entitled to use the same for the purpose of the worship of God in accordance with the usages and practices, tenets and doctrines of said church.

The court doth therefore order, adjudge and decree:

That plaintiff's bill be dismissed;

That plaintiffs and their associates be and they hereby are enjoined and restrained from enforcing or attempting to enforce the judgment attempted to be rendered on December 20, 1909, by T. L. Gray and Daniel Sommer, evangelists, wherein they attempted to depose P. H. Lilly from the position of elder or bishop of said church, and also from attempting or endeavoring to exclude said P. H. Lilly from membership in said church by reason of the attempt to exclude him on the charges against him as a member of said church, and they are hereby enjoined and restrained from interfering with defendant, P. H. Lilly, in the performance or discharge of his duties as elder or bishop in said church, by reason of any of said proceedings so

herein adjudicated upon;

That all parties to this action are hereby enjoined and restrained from interfering with T. C. Kindred and W. L. Arnold in the discharge and performance of their duties as deacons of said church or with their management of the temporal affairs of said church, including the church property, in accordance with the practices of said church:

That plaintiffs and defendants and each of them and their associates and all members of said church be and they are hereby enjoined and restrained from in any manner interfering with any other member of said church in the worship of God in said church house, in accordance with the practice of said church, and from locking up the church house or locking other members out of the building or from preventing or interfering with any other member of said church in the worship of God therein, in accordance with the tenets, doctrines and practices of said church, and from excluding any person from membership in said church by reason of the charges or trials hereinbefore referred to;

That plaintiffs, W. L. Arnold and H. E. Bond be, and they are hereby enjoined and restrained from exercising or attempting to exercise or perform the duties of trustees of said church under their alleged election of December 29, 1909; that plaintiffs, H. E. Bond, S. B. Cropper and Wade Hampton be and they are hereby enjoined and restrained from exercising or performing the duties of deacons in said church, under their alleged election to such office on December 29, 1908;

That plaintiffs pay that part of the costs incurred by them (including their own witnesses); that defendants pay the costs incurred by them (including their own witnesses), and that as to any costs that it cannot be determined at whose instance such costs were incurred, plaintiff and defendant shall each pay one-half, all as per decree.

