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New Jersey Court of Errors and Appeals

Between
JOHN SCHILSTRA, *et als,*
Complainants-Respondents,
and
ARIE J. VAN DEN HEUVEL, *et als.,*
Defendants-Appellants.

On Appeal from Chancery.

Brief for Appellants.

The complainants in the court below, who are the respondents in this court, exhibited against the appellants, who were the defendants below, their bill of complaint by which they claim to be the legally constituted members of the consistory and as such the trustees of the North Side Christian Reformed Church of Passaic. As trustees, they claim to be vested with the title to and control over the temporal property and affairs of the church. The charge of the bill is that nine of the appellants are unlawfully and illegally assuming to act as the consistory and trustees of the church and are preventing the respondents and other members of the congregation from using the church building and parsonage and that they are diverting the property of the church from the purpose for which it was designed and organized, to wit, for religious worship according to the doctrine and rules of the denomination known as the christian Reformed Church of America. That the appellant Van den Heuvel has been wrongfully and illegally employed by the other appellants to minister to the congregation of the church, and that the appellant Rein-

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stra, the sexton, wrongfully holds possession of the church property refusing to permit the respondents and their associates to have access thereto (pp. 11-13). The appellants Van den Heuvel and Reinstra, being employees of the other appellants, must rest their rights upon the rights of their employers. The cases of all of the appellants who are all of the defendants in the court below will therefore be considered together.

The prayer of the bill is that the appellants may be restrained from closing the church and parsonage against the respondents and against such minister as may be duly authorized to be the minister in charge and against all members of the congregation desiring to use the church as a place of worship in accordance with the doctrine, discipline and rules of the Christian Reformed Church of America; that the appellants may be restrained from acting as elders or deacons or members of the consistory of the North Side Church or as trustees thereof, and from diverting or attempting to divert the property of the church from the Christian Reformed Church of America; that the respondents may be decreed to constitute the consistory of the church and that the appellants, their associates, minister &c., may be restrained from entering upon or taking possession of the church building or of any of the church property and may be restrained from the further use and usurpation of the premises (p. 13, l. 30, to p. 15, l. 20).

The appellants filed an answer admitting the principal facts alleged in the bill but setting up the further facts that the North Side Christian Reformed Church of Passaic had lawfully withdrawn from the denomination known as the Christian Reformed Church of America and denying that they or their agents were unlawfully diverting the property of the church from that denomination (p. 27, l. 30; p. 28, l. 28). Pursuant to leave granted by the court (p. 31, l. 32), the

appellants filed a supplemental answer setting up that the New Jersey Supreme Court, upon a rule to show cause why a writ of *quo warranto* should not issue, directed to certain of the appellants, to show by what warrant or authority they claimed to have, use and enjoy the offices, franchises, &c., of trustees of the North Side Christian Reformed Church of Passaic, decided that the title of the appellants to the offices of elder and deacon and trustees of the North Side Christian Reformed Church was unimpeachable; that the right of the congregation to secede from the denomination of the Christian Reformed Church of America was established; that such right has been duly exercised by the congregation; that the court would decline to allow the writ of *quo warranto* to issue. This decision was rendered after the filing of the bill in this cause. It was claimed by the supplemental answer that the only question raised by the pleadings in this cause was adjudicated upon finally between the parties by the New Jersey Supreme Court upon the application for the writ of *quo warranto* (pp. 33-35).

The cause came on for hearing before Vice-Chancellor Howell upon the foregoing pleadings. On July 17, 1913, a final decree, advised by Vice-Chancellor Howell (p. 229), was made in accordance with the prayer of the bill. From this decree the defendants below have appealed to this court.

I.

The Issues of Fact and Law.

Only one ground of equitable jurisdiction is presented by the bill, that is, are the appellants as trustees committing a breach of trust in diverting the property of the North Side Christian Reformed Church from the uses and practices of the denomination known as the Christian Reformed Church of America. In order to sustain the charges made in this respect, it is of course necessary to concede that the appellants *are* trustees. If they were not trustees, the only proper remedy would be to oust them from the exercise of the functions of trustees by appropriate proceedings at law in the nature of *quo warranto*. The rule as generally stated in 34 Cyc., 1133, is as follows:

> "It is well settled that the title of an officer of a church or religious society is not subject to attack in a collateral proceeding and a bill in equity will not lie to restrain his alleged illegal acts; but the proper remedy to test his right to exercise the office is by proceedings in *quo warranto*."

Numerous cases from other states are cited which support this statement of the equitable rule. In this state there appears to be only a dictum of Vice-Chancellor Emery in *Bergen Traction Co.* vs. *Ridgefield*, 32 Atl. Rep., 754. In that case the court said:

> "I have not considered the further point raised by defendant's counsel that the road board was not legally constituted under the Act of 1894 and has no legal existence. According to my present view a court of equity would have no power to decide this question, even on final decree, as it is a matter to be adjudicated once for all in a direct proceeding for that purpose in the Supreme Court."

See also *Doremus* vs. *Dutch Church,* 3 N. J. Eq., 332, 349.

The allegations and the prayer of the bill are exceedingly disorderly and multifarious. It is difficult to determine whether the bill is an attempt to impose upon the Court of Chancery the task of deciding a question within the exclusive jurisdiction of the Supreme Court on *quo warranto,* whether it is in the nature of an action of ejectment, or whether it seeks a remedy for a breach of trust by trustees whom it alleges are not trustees but mere trespassers. But passing over the objection that the bill is multifarious and assuming that the appellants are trustees legally holding their respective offices and in legal possession and control of the property in question, this brief will discuss what is really the crucial question presented by the bill, and the only one cognizable by a court of equity; that is whether or not the acts of the appellants as trustees constitute a breach of the trust to which they are subject. For the purpose of this inquiry it is necessary to discuss the facts, some of which are disputed, and to apply to them principles of law. It is claimed by the appellants that the court below erred both in its findings of fact and in its conclusions of law.

II.

The Facts.

The North Side Christian Reformed Church of Passaic was organized under that portion of the General Religious Societies Act which pertains to churches of the Reformed faith (Comp. Stat. 4315, plac. 13). Those sections were expressly extended to congregations of the Christian Reformed Denomination by a supplement to the general act (P. L. 1892, p. 111; Comp. Stat. 4317, plac. 24a). Pursuant thereto the North Side Church was incorporated as a congregation of the Christian Reformed Denomination, by certificate filed July 22nd, 1905 (Ex. C. 1, p. 172). Property was bought in the City of Passaic, a church and parsonage were erected (p. 37, ll. 27-40), and the congregation worshipped together in peace and harmony as a church of the Christian Reformed Denomination from the time of its organization until the latter part of the year 1911 (p. 40, ll. 12-26), when dissensions arose concerning the coming installation of certain newly elected elders and deacons. These dissensions did not however take substantial form until January 4th, 1912 (p. 42, ll. 30 *et seq.*), which may be taken as the date upon which the present controversy actually began.

It is undisputed that on January 4, 1912, some of the appellants were serving terms as elders and deacons which would not expire for another year, whereas others of the appellants had been duly elected to the offices of elder and deacon but had not yet been formally inducted into office. The minutes of the corporation, which are undisputed up to January 4, 1912, show this conclusively. Translations of the minutes were offered in evidence by the respondents (p. 128) and marked Exhibit C. 13 (p. 203). Translations of the minutes from and including January 4, 1912, as proved by the Secretary, Martinus J. Bast

(p. 129, l. 10; p. 130, l. 11), were offered in evidence by the appellants (p. 132, l. 30) and marked Exhibit D. 2)p. 207). At the consistory meeting of January 4, 1912 (minutes, p. 207), a disagreement took place as to the installation of the elders and deacons newly elected, all of whom are included amongst the appellants, excepting Leonard Wynbeek. The result of this disagreement was the calling together of a congregational meeting on January 7, 1912 (see minutes, p. 208, l. 18) for the purpose of letting the congregation declare whether or not the installation of the five newly elected members of the consistory should be postponed or not. At this meeting, which was called by direction of John Groenhoff, the acting president (p. 150, ll. 10-30) on the morning of that day (p. 43, l. 34), the meeting being held in the afternoon (p. 163, l. 22), the congregation, by a vote of 46 to 2 (p. 154, l. 13), voted to sever itself from the Classis of Hudson, the superior church judicature of the Christian Reformed Church to which it was subject, one member being present and not voting. It was further voted to install the newly elected members of the consistory forthwith on that day in accordance with the resolution of the consistory passed at the meeting of December 9, 1911 (see minutes, p. 208, l. 19; 210, l. 12). The consistory, as thus constituted, was confirmed and declared to be the duly chosen consistory of the congregation. It was composed of the nine appellant elders and deacons and the respondent Leonard Wynbeek. Thereupon the appellant Van den Heuvel was called into the meeting and he proceeded to install the newly elected members of the consistory in accordance with church rules (see minutes, *supra*).

On the following day, January 8th, written notice (read into record p. 97, l. 1) was served upon each male member of the congregation of a further congregational meeting to be held in the church building on

the evening of January 9th, 1912, at eight o'clock, for the purpose of deciding upon the question of severing the congregation from the Classis of Hudson and for such further purposes as might lawfully be brought before the meeting. This notice was signed by nine male members of the congregation not members of either the old or new consistory, and was prepared and served at the direction of the consistory (p. 156, ll. 13-40), pursuant to the sense of the meeting of January 7th (p. 150, l. 36; p. 152, l. 11; p. 161, ll. 12-162, l. 26). The meeting of January 7th had been called by direction of the defendant Groenhoff, who was vice-president of the consistory and acting president of the corporation at that time (p. 150, l. 24). Only the male members of the congregation have the right to vote in the Christian Reformed denomination, and they may vote by proxy (p. 142, ll. 31-40).

At the meeting of January 9th (Min. p. 210, l. 15), complete ratification was given by the unanimous vote (p. 154, l. 25) of all those present in person or by proxy to the proceedings of the meeting of January 7th. Those present exceeded forty-nine in number, and, according to the testimony of Mr. Dalrymple (pp. 165-166) and Rev. Van den Heuvel numbered fifty-five (pp. 166-167). It appears from the church roll that there were ninety-eight male members of the church at the dates in question. (See church roll, Exhibit D. 4, p. 181 and stipulation, p. 163, l. 29.) The unanimous vote of the fifty-five members present at the meeting of January 9th was, therefore, greatly in excess of a majority of the entire congregation, including those under disabilities, as testified to by Rev. Van den Heuvel. Even if the members did not total fifty-five, it was undeniably more than forty-nine and therefore a majority of the total membership.

The acts of the appellants upon which the respondents base their charges of breach of trust, as shown by the bill are that they have closed the church build-

ings and services against the respondents; that they have employed the appellant Van den Heuvel as their minister, contrary to the directions of the Classis of Hudson; that they have seceded from the Classis of Hudson and from the Christian Reformed Church; that they have diverted the property of the North Side Church from the denomination of the Christian Reformed Church, and that they have presented to the Classis of Paramus, of a denomination foreign to and not connected with the Christian Reformed Church, being of the denomination known as the Reformed Church of America, a petition praying to be admitted as a congregation of the Reformed Church. All of these acts, excepting the closing of the church against the complainants are admitted by the defendants, and they are proved by the testimony of both sides. They must, therefore, be justified. As to the closing of the church to complainants, such a charge is conclusively disproved by the testimony of Garrett Geene (pp. 121 to 123), and the testimony of Sisco, also known as Zylstra (p. 162, ll. 25-32).

The justification of all the other acts of the appellants is based upon the secession of the congregation from the Classis of Hudson and the Christian Reformed Church, brought about by the vote taken first at the meeting of January 7th, 1912, and ratified after due notice to all voting members, at the meeting of January 9, 1912. This brings the case to the point where it is necessary to take up the law, and thus to determine the legal effect of these acts and proceedings upon which the charges of the bill are based.

III.

The Law.

The appellants maintain that the right of this congregation to take action severing its connection with the Christian Reformed Church is laid down by the ecclesiastical law governing such congregations as the same has been expounded, not only by the synods of the church and by many learned ecclesiastical commentators, but as the same has been construed by the Supreme Court of this state in a case similar to this (except that it was properly brought at law by an information in the nature of *quo warranto*), namely, *Pulis* vs. *Iserman,* 71 N. J. L., 408. In that case a congregation of the True Reformed Dutch Church, a denomination formerly governed by precisely the same statutory regulations as the Christian Reformed Church, and at the time in question and at the present time united with it (see Comp. Stat. 4317, Sec. 24a, Test. of Van den Heuvel, p. 135, ll. 10 *et seq.*), resolved to withdraw from the Classis of Hackensack and the Synod of the Christian Reformed Church, which were the superior church judicatures to which such congregation was subordinate. At the meeting of the congregation which adopted the resolution of withdrawal, fifty-three persons, including all the members of the congregation entitled to vote, except ten, were present, and unanimously voted in favor of the resolution. In accordance therewith, the congregation was subsequently received by the Presbytery of Jersey City, just as the congregation of the North Side Church has been received by the Classis of Paramus, and became subsequently known as the First Presbyterian Church of Ridgewood. The relators in that case were persons claiming to be elders and deacons by virtue of proceedings taken by the Classis of Hackensack subsequent to the resolution of withdrawal, just as complainants here depend on

the action of Classis of Hudson. The defendants were the minister, elders and deacons chosen by that congregation, and actually managing its ecclesiastical and temporal affairs. Relators obtained a rule to show cause why they should not be permitted to file an information requiring the defendants to show by what authority they exercised the franchises of the corporation known as, "The Ministers, Elders and Deacons of the True Reformed Dutch Church of Paramus," so that the case presented to the court a question similar to the question here discussed. The court said, p. 411:

"The relators may be regarded as representing "the Classis of Hackensack; they cannot be "deemed the choice of the congregation of the "Paramus Church.

"We are therefore brought to the question "whether, under our law, the congregation, or "some other body, has the right to appoint the "minister, elders and deacons, who, according to "our statute, are the trustees of the civil corpora- "tion whose franchises are now in dispute. The "statute provides that these trustees shall be "elected, appointed, or called according to the "manner, usages and customs of the Reformed "Church, and hence we must turn again to the "rules prescribed by the Synod of Dort. There "it is declared as follows: 'No particular con- " 'gregation can be regularly constituted and " 'organized without officers duly chosen by the " 'members. * * * The original right to " 'choose all their own officers, whether minister, " 'elders, or deacons, properly belongs, according " 'to the scriptures to every particular congrega- " 'tion of saints. * * * This right belongs " 'not to a consistory, to a classis or presbytery, " 'to a patron or to a civil magistrate, and may not " 'be exercised by any individual or individuals at

" 'any time contrary to the wishes of a majority
" 'of the congregation, without being guilty of an
" 'assumption of power that does not belong to
" 'them.'

"These excerpts show that the right to choose "those who, according to our statute, are the "trustees of the corporation, rests exclusively "with the congregation, and results, not from any "denominational edict or connection, but from the "scriptures, to which all Christian denominations "appeal. Ecclesiastically, therefore, the right "must remain with the congregation so long as "the authority of the scriptures is recognized, "whether the congregation stands within or with-"out the pale of denominational unity.

"But it is urged that according to the decision "in Den. *vs.* Bolton, 7 Halst., 206, which dealt "with the rules promulgated by the Synod of "Dort, those members of the congregation who "renounced allegiance to the classis thereby aban-"doned their rights as members.

"The circumstances in Den *vs.* Bolton differed "from those now present in two important re-"spects. There the congregation divided on the "question of withdrawal from the Reformed "Dutch Church, and this court held that under "the rules of that church the same congregation "could be construed by the classis out of the mem-"bers who had opposed the separation. But here "every member of the congregation, either ex-"pressly by his vote or impliedly by his absence "after due notice, assented to the withdrawal, so "that no loyal elements existed for reconstruction, "and the collection of individuals gathered by the "classis was of necessity a new assemblage. *In "the second place, whatever ground there was in "the tenets of the Reformed Dutch Church for "denying the right of a congregation to dissolve*

"its connection with classis and synod, must be "lacking in the tenets of the True Reformed Dutch "Church, for its whole ecclesiastical establishment "is founded on the assertion of such a right. So "far as appears before us, there is no congrega- "tion in the church which has not reached its "place there through withdrawal from some other "denomination. Although these congregations "adopt the words of the Synod of Dort as a "statement of their theory of church government, "yet they must be deemed to understand those "words in the sense indicated by the fundamental "history of their organization. As applied to the "Reformed Dutch Church, this court said those "words denied the right of congregational seces- "sion; as applied to the True Reformed Dutch "Church, we are constrained to say that, as they "contain no explicit declaration on the subject, "they must be regarded as permitting that right.

"That the Paramus congregation, when by "unanimous vote it separated from classis and "synod, did not *ipso facto* lose its congregational "or corporate character, is a proposition support- "ed by the decisions in Doremus *vs.* The Dutch "Reformed Church, 2 Gr. Ch., 332, and Den *vs.* "Pilling, 4 Zab., 653, and if, as we think, it there- "by exercised its right of secession, it became an "independent congregation. The authority of "classis and synod over it being thus terminated, "the subsequent attempts of classis to reconstruct "that congregation or to transfer its franchise to "a new congregation were futile. According to "its own ecclesiastical law the congregation has "ceased to be subordinate to the classis, and hence "the classis was not, in the words of our statute, " 'the superior church judicature to which the " 'congregation was subordinate.' Consequently "the classis had neither ecclesiastical nor civil au-

"thority to remove the officers of the congregation "and invest another body with power to choose "their successors."

The similarity between that case and the present one is striking. As said by Mr. Justice Dixon, every member of the congregation of Paramus Church, either expressly by his vote or impliedly by his absence after due notice, assented to the withdrawal, so that no loyal elements existed for reconstruction. Such is also the case here. The respondents represent only themselves and a small minority of malcontents who declined to attend the meeting of January 9th after due notice. It is undisputed that the overwhelming majority of the body in which these complainants were formerly officers has filled those offices by the election of defendants (see Min., pp. 203-206). It is impossible to avoid the inference that the respondents are disappointed office seekers who stirred up the original difficulty with regard to the installation of the new consistory at the meeting of January 4th, 1912, out of pique at their failure to be re-elected. Can it be said that they are their adherents, being a minority of the congregation, constitute loyal elements upon which a reconstruction of the congregation could be based? Whether this be so or not, it is certainly true, as Mr. Justice Dixon also aptly remarks, that whatever ground there may have been in the tenets in the Reformed Dutch Church (which were under discussion in *Den* vs. *Bolton*, 7 Hals., 206), for denying the right of the congregation to dissolve its connection with classis and synod, must be lacking in the tenets of the True Reformed Dutch Church, because its whole ecclesiastical establishment is founded upon the assertion of such a right. Such is likewise the case with the Christian Reformed Church with which the True Reformed denomination is now consolidated. (See testimony of Gerrett Westenberg, p. 83, l. 32; p. 87.)

Likewise, both parties to this controversy appeal to the rules laid down by the Synod of Dort as the final declaration of principles of the internal government of the Christian Reformed Church. (See testimony of Westenberg, p. 75, l. 24, *et seq.*, and testimony of Van den Heuvel, p. 135, l. 31, *et seq.*)

Applying the rules of the Synod of Dort, as the same have been interpreted by the Supreme Court in *Pulis* vs. *Iserman, supra,* to the case in hand, there can be no doubt of the right of this congregation to withdraw from the Christian Reformed denomination and to cast off its allegiance and subordination to the Classis of Hudson as a superior church judicature, and to determine to exist as a separate unit under the authority of the Religious Societies Act, under which it was incorporated. The appellants insist that the North Side Church both as a religious society and as a corporation organized under the laws of this state had a legal right to secede from the denomination to which, until such secession, it was undoubtedly subject. The case of *Pulis* vs. *Iserman* is itself ample authority for this contention without further recourse to the opinions of learned commentators and of the expert witnesses in this cause. The only question which remains for examination is whether the evidence shows that the congregation took the steps necessary to bring about this result in a legal manner. The appellants contend that it did so. The burden of the respondents' complaint is that the secession was not accomplished in an orderly and legal manner, and that therefore the appellants are improperly diverting the subject of their trust from the uses of the Christian Reformed Church. This issue involves questions of law as well as of fact, and has therefore been reserved for detailed discussion at this point in the argument. The contested points in the proceedings of the congregation will now be examined.

It is claimed by the respondents (1) that the meetings of January 7th and January 9th were illegally called; (2) that due notice of these meetings was not given to the members of the congregation; (3) that the corporation is governed by the consistory, and not by the congregation; (4) that there was not, in fact, a majority vote in favor of secession at the meetings of January 7th and January 9th.

Considering first the question of the call for the meetings, we find that the meetings of January 7th and January 9th were called, respectively, by the persons acting as temporary president of the corporation at the respective times of the calls pursuant to the statute (Comp. Stat., 4317, sec. 20), which make it the duty of the person who shall be president of the corporation, at the request of any two or more of the members, to convene a meeting of the same. The president, Arie J. Van den Heuvel, was at that time on leave of absence (p. 143, l. 21), and the meeting of January 7th was called at the direction of the defendant, John Groenhoff, vice-president of the corporation (p. 150, ll. 10-30), and the meeting of January 9th was called by nine members of the congregation by direction of the consistory of whom both Groenhoff and Sisco, who was chosen acting president at the meeting of January 7th, were members (p. 150, l. 38). A vast amount of testimony was introduced by respondents tending to show that by some unwritten rule of the Christian Reformed denomination all congregational meetings were accustomed to be called by the consistory, but each of the witnesses called by complainant to prove this rule conceded on cross examination that he had never had any experience with such unwritten rule and had never been engaged in a dispute where the question became material, whereas defendant's witness Van den Heuvel, testified positively (pp. 138 to 141), that no such rule existed, and cited specific instances in which the congregational

meetings had been called by the president or secretary of the congregation. Even the respondents must concede that the meeting of January 9th was legally called, whatever be the rule in this respect, since it was ordered to be called by the consistory, amongst whom were the vice-president and the acting president of the congregation, and was not actually called by the consistory themselves, because of their honest belief that a meeting called by independent members of the congregation would be more likely, in view of the feeling against the consistory, "to get all members present that belonged to the church" (p. 156, ll. 25-35).

With regard to the question of notice, it is not clear that actual notice was given to each member of the meeting of January 7th, for it was first announced to the congregation on the morning of January 7th, and was held on the afternoon of that day. It was to remedy this possible defect that the ratification meeting of January 9th was held (p. 209, l. 8; p. 210, l. 21). With regard to this ratification meeting of January 9th, there can be no question of the sufficiency of notice. There is no provision either in the Religious Societies Act or in the ecclesiastical rules to which the congregation was formerly subject requiring any notice of congregational meetings (see Ex. C. 6; p. 185, containing the rules applicable to this case). Section 20 of the act, provides that the person who according to custom ordinarily presides at meetings of the consistory shall be president of the corporation, and has power to convene the corporation as occasion may require; and at the request of any two or more of the members, it is his duty to convene same in such manner and under such regulations as the corporation shall from time to time direct. Nothing appears in the case to show that any regulations were at any time adopted prescribing the manner of convening congregational meetings. The written notice of the

meeting of January 9th was served upon each member of the congregation at least a full day in advance thereof, and was therefore, in the acute state of affairs then prevailing, most ample and reasonable notice, since the entire congregation lived in the vicinity of the church.

Upon this point we have the authority of a recent case in the Court of Chancery to sustain the method of calling and giving notice of the meetings of both January 7th and January 9th, 1912. *Vargo* vs. *Vajo*, 76 N. J. Eq., 161.

In that case a majority of the congregation of a Reformed Church desired to secede from that body. Accordingly on Sunday, February 17th, 1907, the pastor, in accordance with the custom of the church, announced that there would be a meeting of the consistory at the close of the church services. The by-laws of the church provided that among the duties of the pastor was that of summoning consistorial and congregational meetings, and presiding over them. There was no other specific by-law or rule on the subject. At the meeting of the consistory, it was determined that the plan of secession should be laid before the congregation at a general meeting to be held on Sunday, March 3rd, 1907, and a notice was accordingly posted on the doors of the church, calling such general congregational meeting. This was all the notice that was given to the members of the congregational meeting of March 3rd, at which action was subsequently taken which the court held constituted a legal act of secession from the Reformed Church. In connection with the validity of the notice of the congregational meeting the same learned vice-chancellor who wrote the opinion in the case now *sub judice* said (p. 166):

> "The absence from the constitution of the "church of a specific method of calling these meet-"ings must have been deemed to be a defect in

"the laws of the church, for the reason that the "new constitution adopted in 1908, contains de- "finite rules on the subject. The practice which "was followed, however, is one which is pre- "scribed in Article 40 of the Church Constitution "which was in force at the time for calling meet- "ings for certain objects therein specified. It "declares 'all matters of this kind must each be " 'investigated and determined by the consistory " 'and then be submitted for final decision to the " 'congregation; a meeting of which shall be con- " 'vened for the purpose by the consistory on some " 'suitable day.'

"In this case the matter in question was acted "upon at a regularly called meeting of the con- "sistory by a unanimous vote, and was then sub- "mitted to a general meeting of the congregation "to be held on March 3rd, which was called by a "*fair and reasonable notice.* In pursuance of the "notices given, a large number of people who be- "longed to the congregation assembled after the "regular church services on that day, some of the "witnesses putting the number as high as three "hundred."

The court then goes on to find that the meeting unanimously voted in favor of secession, because no objections were made after one notice, and further that the church had an inherent right to so secede, basing its conclusions largely upon the case of *Pulis* vs. *Iserman, supra.*

The situation in *Vargo* vs. *Vajo,* was very similar to that in the present case and seems to conclusively determine that in the absence of express rules governing the calling of congregational meetings, fair and reasonable notice to every member of the congregation is sufficient to invest a meeting convened in accordance with such notice with the character of a legally called meeting of the congregation. The ap-

pellants therefore insist that even if the notice of the meeting of January 7th were not legally sufficient, nevertheless this branch of their case can safely be rested upon the action taken at the ratification meeting held on January 9th after actual notice to each member of the congregation; for the effect of that meeting was to ratify every act done at the meeting of January 7th, and full opportunity was there given to object to such acts.

The third claim of the respondents is that the congregation lacked power to continue the appellant Van den Heuvel as their minister, after his suspension by the Classis of Hudson, and that Van den Heuvel and all of the appellants whom he installed on January 7th are therefore usurpers, and had no power to call the meeting of January 9th. This contention, if cognizable at all in a court of equity, is completely refuted by the rules of Dort and by the decision in *Pulis* vs. *Iserman, supra,* in which Mr. Justice Dixon (p. 411) said:

> "We are therefore brought to the question "whether, under our law, the congregation, or "some other body, has the right to appoint the "minister, elders and deacons, who, according to "our statute, are the trustees of the civil corpora- "tion whose franchises are now in dispute. The "statute provides that these trustees shall be "elected, appointed or called according to the "manner, usages and customs of the Reformed "Dutch Church, and hence we must turn again to "the rules prescribed by the Synod of Dort. There "it is declared as follows: 'No particular con- " 'gregation can be regularly constituted and or- " 'ganized without officers duly chosen by the " 'members. * * * The original right to choose " 'all their own officers, whether minister, elders " 'or deacons, properly belongs, according to the " 'Scriptures, to every particular congregation of

> " 'saints. * * * This right belongs not to a consis-
> " 'tory, to a classis or presbytery, to a patron or
> " 'to a civil magistrate, and may not be exer-
> " 'cised by any individual or individuals at any
> " 'time contrary to the wishes of a majority of the
> " 'congregation, without being guilty of an as-
> " 'sumption of power that does not belong to
> " 'them.' "

The foregoing excerpt is a positive demonstration that the contention of the respondents is also in this respect unsound.

Coming finally to the question of the vote, it appears that the statute under which the congregation was organized (Comp. Stat., 4317, sec. 23), provides that the proceedings, orders and acts of a majority of all the members of the said corporation, but not of a less number, shall be valid and effectual in law. It is clear, therefore, that the fifty-five members out of a total membership of ninety-eight, of whom less than that number were qualified to vote, who voted for a separation, had full power to take such action, since it does not appear that there exists any ecclesiastical rule or custom to the contrary, and since such act has been held to be within the legal powers of the congregation, acting by a majority thereof. *Pulis* vs. *Iserman, supra.* The testimony of George H. Dalrymple (page 165) is clear to the effect that fifty-five persons voted to ratify the act of secession at the meeting of January 9th. Under a most grilling cross examination the appellant Van den Huevel confirmed this testimony with this possible modification, that two of those counted amongst the fifty-five may not have been qualified to vote (page 169, ll. 10, *et seq.*). Supposing then that only fifty-three votes were cast in favor of secession it was a clear majority of the ninety-eight male members on the church roll at the time. (See Exhibit D. 4, p. 211.)

Under such a state of fact and law the learned vice-chancellor, who heard the case in the court below, expressly dissented from the opinion of the Supreme Court in the *quo warranto* proceedings, on the ground:

(1) That the meeting of January 9th was called without authority and not by the consistory, nor in the usual manner.

(2) That the notice thereof was for a consistory meeting only, while the meeting that was held was a meeting of the congregation.

(3) That the only matter to be acted upon, according to the notice, was "Concerning the relations in the case of severing from Classis of Hudson and what further lawfully may be brought before the gathering."

(4) It was called on too short a notice to be fair, or to obtain a fair representation of the general body of the congregation.

As will appear from an examination of the printed case in the Supreme Court the testimony before that court was practically identical with the testimony before the Court of Chancery. It is therefore not surprising that the learned vice-chancellor expressed his great reluctance in dissenting from the opinion of the Supreme Court, and it is now most respectfully urged upon this court that this serious difference of opinion between the vice-chancellor and the judges of the Supreme Court, who heard the case on *quo warranto*, should commend these matters to a particular attention and scrutiny. The main body of this argument has already treated of the first, third and fourth objections of the learned vice-chancellor. The second objection is a most unfortunate error, due to the fact that the notice of January 8th was incorrectly printed in the Supreme Court case, which was furnished to the vice-chancellor for his convenience when the

case was submitted in the court below. As will appear by reference to the notice (page 97, l. 1 of the printed book in this cause), it is, in fact, for a "congregational meeting." The correctness of this version has been verified by a reference to the original notice.

But the important feature of the decision of the court below, with which the appellants take issue, is that it fails to recognize the distinction between a church of the Christian Reformed denomination and one of any and every other denomination in matters of secession. This distinction was clearly pointed out by Mr. Justice Dixon in *Pulis* vs. *Iserman, supra,* when he said (page 412) that:

> "Whatever ground there was in the tenets of the Reformed Dutch Church for denying the right of a congregation to dissolve its connection with Classis and Synod must be lacking in the tenets of the true Reformed Dutch Church, for its whole ecclesiastical establishment is founded on the assertion of such a right. So far as appears before us there is no congregation in the church which has not reached its place there through withdrawal from some other denomination."

In this connection it will, of course, be borne in mind that the True Reformed denomination and the Christian Reformed denomination are, with respect to the question of secession, in precisely the same position. The vital error in the decision of the court below rests in the failure to recognize this distinction.

Notwithstanding the positive decision in *Pulis* vs. *Iserman*, the opinion of the learned vice-chancellor proceeds as follows (p. 226, l. 1):

> "It is not contended that the individual members may not secede from the individual churches; it is conceded that they may; but may

> any faction however, large secede and take with them the church property in a case where there remains a body which is loyal to the former affiliation? This question must be answered in the negative."

The opinion then cites cases, none of which bear out this statement of law. The whole opinion neglects the argument made for the appellants which is, of course, the essence of their contention, to wit, that the whole existence of the Christian Reformed denomination is based upon the theory of the right of congregational secession.

The appellants submit that the act of separation has been justified in substance and in form, and that such being the case, they cannot be charged with a breach of trust in diverting the property of the church from the uses of the Christian Reformed denomination and in refusing to be governed in their management of the church property and in the conduct of the services by the ecclesiastical authorities of the Christian Reformed denomination. The only ground of equitable jurisdiction has thus been disposed of and it follows that the bill should have been dismissed.

IV.

The Judgment of the Supreme Court on quo warranto.

The relators in that case and the respondents in this case were the same, and the object of the proceedings there was to obtain a writ of *quo warranto* to test the title of five of the defendants to the offices of elder and deacon. Precisely the same facts were relied upon by the relators in that case as by the respondents in this case, and the testimony considered by the court upon the argument of the rule was substantially the same as that now before this court. The Supreme Court held in its opinion, filed February Term, 1913 (printed in back of Supreme Court record), that the right of secession existed, and that substantially for all practical purposes due notice of the meeting of January 9th, was given, and that it could not be reasonably urged that any member of the congregation was misled as to that meeting; that this case in its essential features was akin to the case of *Pulis* vs. *Iserman* (*supra*), and that the views of Mr. Justice Dixon expressed in that case as reasons why the defendants there "should not be vexed with further avoidable litigation" were equally apt in the case before it to warrant the Supreme Court to decline to allow the writ of *quo warranto*. Judgment was entered discharging the rule.

If, as a matter of technical precision, the judgment of the Supreme Court cannot be considered conclusive between the parties to this cause, as the vice-chancellor held, nevertheless it is entitled to the greatest weight in determining the questions of fact and law now before this court; and especially is it to be noted that if a court of law found the moral reasons and public policy opposed to the respondents of sufficient weight to warrant it in declining to exercise its discretion in their favor, how much more will a court

of equity be swayed by reasons of such a nature. The very character of the dispute speaks for itself upon this point. Respondents are malcontents, irritated by the loss of an office, which this protracted litigation shows them to be ill fitted to fill in a body devoted primarily to the maintenance of Christian principles, and existing primarily for divine worship and for the moral uplifting of its members. Nor is the diversion of the church property from the Christian Reformed denomination to the Reformed denomination of such a character as to constitute a substantial change in its use; on the contrary, both the religious doctrines and the system of church government of the Reformed Church in America are not only similar to, but identical with, the doctrines and rules of government of the Christian Reformed denomination. (See test. of Jacob Poppen, pp. 144, 149.)

The decision of the Supreme Court, refusing to disturb these appellants in the tenure of their offices, itself constitutes an equity in their favor, which this court will surely not overlook.

The appellants respectfully submit to the court that they and the congregation of the North Side Church should not be harassed by a disturbance in the management of the property of the church and in the government and practice of its ecclesiastical and purely religious affairs. It is obvious that the interests of the majority of this congregation represented by these appellants will be ruinously affected if the respondents are allowed finally to succeed.

Respectfully submitted,

CHARLES B. BRADLEY,

Of Counsel with Appellants.

Lex Press, 165 William Street. 'Phone 4535 Beekman.

New Jersey Court of Errors and Appeals.

Between
JOHN SCHILSTRA, *et al.*,
Complainants-Respondents,

and

ARIE J. VAN DEN HEUVEL, *et al.*,
Defendants-Appellants.

BRIEF ON BEHALF OF COMPLAINANTS-RESPONDENTS.

Statement of the Case.

This is an appeal from a decree of the Court of Chancery, advised by Vice-Chancellor Howell, adjudging the defendants-appellants guilty of a breach of their trust, as trustees of the Northside Christian Reformed Church of Passaic, in diverting the trust property from the purposes of the trust to which it was and is dedicated, and restraining them from intermeddling with or diverting the trust property, and restraining the defendant Van den Heuvel from acting as the minister of the church, and for other relief.

The bill was filed by five members of the Northside Christian Reformed Church of Passaic, on behalf of themselves and others similarly situated, to restrain the attempted diversion of the temporalities and trust property and for other relief (p. 1), and thirty-seven additional members of the church were admitted as parties complainant (p. 228, l. 16). The church in question was organized in the

year 1905 under the authority of Classis Hudson of the Christian Reformed Church of America (pp. 22, 38, 39), a denomination of Christians having churches throughout the United States (p. 23, l. 5). The worship, doctrine and discipline of this denomination is grounded upon the articles adopted by the Synod of Dordrecht in the years 1618 and 1619, known as the Articles of Dort (pp. 74, 75).

The church government is vested in assemblies known as Consistory, Classis and Synod. Each individual church congregation is governed by its own Consistory, composed of its minister, elders and deacons. The consistories of each district are subject to the jurisdiction of the Classis of the district, which is an assembly composed of the ministers and elders delegated to constitute such Classis. Classes are subject to the jurisdiction of the supreme assembly known as the Synod, which is composed of delegates from all the classes in the denomination (pp. 75, 77).

At the time of its organization, the said Northside Church selected deacons and elders, who became its trustees by virtue of the provisions of the Religious Societies Law (Comp. Sta., p. 4315, sec. 13), under which they were duly incorporated (C-1) as "The Minister, Elders and Deacons of the Northside Christian Reformed Church of Passaic" (p. 22, l. 18). The provisions of section 13 to 24 of the act concerning Reformed Churches are made applicable to churches of the Christian Reformed denomination by P. L. 1892, p. 111, Comp. Stat. p. 4317, sec. 24a.

After incorporation, the society purchased land in the City of Passaic and erected thereon a church edifice and a parsonage (p. 37, l. 30-40; p. 22, l. 31), and worshipped in unity and accord as a congregation of the Christian Reformed denomination until Sunday, January 7, 1912 (p. 40, l. 25), when cer-

tain events occurred which will be hereafter more particularly discussed.

The elders and deacons of each congregation hold office for two years or until their successors are elected and ordained, and one-half of the number are changed annually (p. 185, l. 30).

Nominations for the office of elders and deacons are made by the consistory (p. 185, Art. 23-24). The names of the persons so nominated are published from the pulpit for two weeks, and a day is set by the consistory for the election. After the election the names are again published from the pulpit (p. 79, l. 20) for the purpose of giving members of the congregation an opportunity to present objections.

In the event that a member objects to the ordination, the Consistory must delay the matter for the purpose of investigating such objection (p. 81, l. 10). The term of office does not commence until after the ordination (p. 79, l. 35).

Certain elders and deacons having been elected, the Northside Consistory set the first Sunday in January for the ordination (p. 206, l. 10). On January 4, 1912, the Consistory resolved to postpone the ordination for the purpose of investigating charges presented (p. 54, l. 17).

This was the condition which existed on Sunday, January 7, 1912.

At the close of the Sunday morning service on that day, the defendant Bast announced orally from the floor of the church (p. 43, l. 35; p. 56, l. 10; p. 72, l. 30) that there would be a meeting of the congregation at the close of the afternoon service to talk about the installation (p. 72, l. 30). This was followed by an announcement from the pulpit, by order of the Consistory, that the meeting would not be held (p. 44, l. 20). There was no other notice or call of the meeting.

The defendants assert that a lawful meeting of the congregation was held that afternoon pursuant to this call or notice and that at that meeting the congregation legally seceded from the denomination.

The defendants' minutes of the meeting are in evidence (D-2, p. 208). These minutes recite that 49 persons were present at that meeting, of whom "46 declared themselves in favor of severance, two against and one held himself neutral" (p. 209, l. 10). The meeting adjourned *sine die* (p. 210, l. 10).

109 adult members declared themselves opposed to the secession (Exhibit C-3) and did not participate in the meeting, because they considered it illegal (Stipulation, p. 20, C-3, p. 179).

The regular session of the Sunday School in the Northside Church follows the church service, but on this occasion the defendants and their associates would not permit the Sunday School to meet (p. 56, l. 35).

Prior to this time and at a meeting of Classis on August 3, 1911, the minister defendant Van den Heuvel had been found guilty of improper and imprudent conduct, and the judgment of Classis was that he "Make open confession of those sins and to reconcile himself with his consistory and his congregation" or suffer suspension (Exhibit C-7, p. 187).

At its meeting of November 23, 1911 (p. 188, l. 20) Classis decided that "the Rev. Van den Heuvel is not able to conduct those matters in that congregation. Therefore is Classis necessitated, although with deep sorrow to sever the connection between Rev. Van den Heuvel and his congregation."

An appeal from this decision having been taken to Synod, Classis on December 13, 1911, decided to postpone the execution of its judgment until

Synod, and provided that pending the said appeal Rev. Van den Heuvel "shall withhold himself from all work in that congregation" (C-7, p. 189).

This action was still in force at the time of the meeting of January 7, 1912, and is so admitted by Van den Heuvel (p. 144, l. 5).

Although it is said by defendants that at the meeting of Sunday afternoon, January 7, 1912, the resolution of secession was left open "with the right to give others not present a chance to sustain or oppose the same" (p. 209, l. 5, Defendants' Minutes of January 7, 1912, Exhibit D-2), it appears that the defendants and their associates proceeded as though the secession was complete and at that meeting elected a new president, called in this deposed minister, Van den Heuvel, in violation of the above stated action of Classis, and had him then perform a service of installation (p. 209, l. 10-20, Exhibit Minutes D-2).

On the following day, January 8, 1912, the defendants Zylstra-Sisco and Bast signed and sent to Classis Hudson a communication (p. 206, C-14-A), as follows:

Passaic, N. J., Jan. 8, 1912.

To the Classis Hudson of the Christian Reformed Church:

To the Stated Clerk of the Classis of Hudson:

Worthy Brethren:—

Hereby we inform you that the congregation Northside, called together, has resolved yesterday to sever her connection with the Classis of Hudson, with which action the minister has joined himself, so that both have broken the connection with the Classis of Hudson.

In the name of that meeting,

J. Zylstra Sisco, Pres.
M. J. Bast, Secretary.

The complainants attempted to meet at the church parlors on the same day, January 8th, but were excluded by defendants (p. 58, l. 10).

On the same day, Monday, January 8th (p. 164, l. 3) nine members of the congregation, holding no office and without authority, circulated a printed call for a meeting of the congregation to be held the next day, January 9th, "to decide concerning the relations in case of severing from the Classis of Hudson and what further lawfully may be brought before the gathering" (p. 97, l. 1-20).

This notice was not addressed to any one, except as appears in the body of the notice, but copies were left at the residences of most of the members. Only 43 members, including the defendants, had personal notice of the meeting (p. 211, Exhibit D-4).

Pursuant to this notice the defendants and their associates met on January 9th, and the minutes (D-2) show that a rising vote was taken "which disclosed that the minutes [of Sunday, January 7th] were accepted, approved and established by unanimous vote" (p. 210, l. 30). But the defendant Sisco testifies that there was one vote in opposition (p. 154, l. 35). He also admitted that two others who were at the meeting to protest, expressed their opposition (p. 161, l. 1-10). The complainants held a meeting the same evening, January 9th, with the adjacent Hope Avenue Consistory, and imposed ecclesiastical punishment on the defendants (p. 60, l. 1-30).

Thereafter the questions here in dispute were on January 11, 1912, two days later, duly submitted to Classis Hudson, which is the superior judicature to which the Northside congregation is subordinate, as provided by Section 19 of the Religious Societies Act, and Classis decided all questions in dispute in favor of relators (C-4, p. 181). Synod, the supreme judicature, thereafter approved the action of Classis Hudson and decided the questions in favor of complainants (C-10, p. 196).

By section 19 of the Religious Societies Act

(Comp. Stats., p. 4316), the decision so made is final.

The respondents and their associates, numbering about 330, men, women and children (p. 126, l. 20) have at all times on and since January 7, 1912, continued their regular services as prior to that date, in accordance with the rules of the denomination, under ministers of the Christian Reformed faith (p. 61, l. 10-40), and have paid their regular denominational contributions in all respects as before the alleged secession (p. 92, l. 20).

On one occasion fifty of the male members went to the defendants and requested them to return to the denomination and "live in harmony" (p. 63, l. 15).

The defendants conducted services for a time as an independent congregation (p. 155, l. 25), meeting part of the time in the Episcopal Chapel in Clifton (p. 157, l. 35), and also in a chapel on Autumn Street, Passaic (p. 158, l. 20). Sometime later defendants, on application to Classis Paramus, were admitted to the Reformed denomination without notice of this proposed action to complainants and their associates, and appellants claim to have taken the church property and temporalities with them into this foreign denomination (p. 30, l. 10).

Following the alleged secession of Sunday, January 7, 1912, the defendants changed the locks on the church doors (p. 127, l. 10), and excluded the complainants from the church and took possession of the church books and temporalities. Pending the litigation, the use of the church edifice was divided between the two parties after March 28, 1912, under the order of the Court of Chancery (p. 17).

The appellants admit by stipulation on the record (p. 163, l. 30) that up to at least the time of the meeting of Sunday afternoon, January 7, 1912,

the complainants were members in good standing of the Northside congregation (D-4, p. 211). It is also stipulated that complainants and their 109 associates have proved that they did not consent to the secession nor to any change of church government, then or at any other time, and have continued their church as a church of the Christian Reformed denomination in all respects the same as it existed prior to the attempted secession (p. 120, l. 20, and C-3, p. 179).

The appellants assert that they have done nothing to deprive the complainants of their membership (p. 163, l. 10). The appellants therefore admit that the respondents still retain their membership in the Northside congregation. Can it be said that they and the three hundred and thirty members who are opposed to the secession have had their religious affiliations transferred by the appellants to another religious denomination against their will and over their protest?

The appellants admit the substantial allegations of respondents and attempt to justify their acts (Applts. Brief, p. 9).

The Court below decided "that it was a breach of trust on the part of the defendants to assist in or connive at the transfer of the property in question from one ecclesiastical body to another without the consent and concurrence of all concerned or without a proceeding whose validity and effect is beyond contention" (p. 221, l. 36).

Of the secession which the appellants set up in justification of their acts, the Court below said: "The proceeding by which this attempt was made strikes me as irregular and disorderly to such an extent as to be voidable on the complaint of any one interested" (p. 222, l. 3).

The Court held that by reason of the irregularities in the notice of the meeting of January 7, 1912, and the manner in which it was held, that "it

must be clear that this meeting was irregular, and that its action could bind no one, except possibly those who were present and acting" (p. 222, l. 25).

Of the subsequent meeting of January 9, 1912, the Court discussed the facts proved and said: "I do not think that any valid action could be taken at a meeting so called and held" (p. 224, l. 7).

The Court further decided that the matters in controversy had been submitted to the proper superior ecclesiastical courts and had been there duly decided in favor of respondents.

A decree was thereupon advised and entered in favor of complainants (p. 229) and defendants appeal.

POINTS.

I.

Appellants do not specify any errors nor state in what respect the decree is alleged to be erroneous.

It is submitted that respondents are entitled to a specification of the alleged errors upon which the appeal is based, as provided by the Rule of this Court, and that in the absence thereof the appeal should be dismissed. No specification of alleged errors is presented by appellants.

II.

The Appellants' Brief contains many inaccurate statements.

On page 14 of the Appellants' Brief, it is stated that respondents represent "a small minority of malcontents." The Vice-Chancellor found that the congregation is about evenly divided (p. 225, l. 24). The appellants' stipulation (p. 120, l. 20) admitting the proof of 109 adult members of the congregation on behalf of respondents, and the refusal of appellants to disclose their membership, is an evidence of lack of care at least in the statement above mentioned.

On the same page 14 and on page 26, counsel for appellants refers to respondents as "disappointed office seekers." A reference to the minutes (p. 205, l. 4) shows that these respondents were *not* candidates for election. Counsel also loses sight of the fact that thirty-seven additional complainants have been added to the original five (p. 228, l. 17), and the charge is without foundation and is absolutely false and untrue, and it is submitted that this statement is made for the purpose of hiding the guilt of appellants who stand convicted by the decision of the Vice-Chancellor who heard the testimony and saw the witnesses of "a high-handed and lawless attempt to appropriate" the property (p. 227, l. 2).

On page 16 counsel confuses the meeting of the corporation or trustees mentioned in the statute with the meeting of the congregation for which the statute does not provide. He then incorrectly states that the meetings were called by the acting president of the corporation which is untrue, as pointed out herein.

At the foot of page 16 it is stated that Van den Heuvel testified that no unwritten rule existed as to the call of a meeting of the congregation, but a reference to his testimony (p. 138, l. 12) discloses that is incorrectly quoted and that he did admit the existence of this custom. The statement at the foot of page 16, to the effect that Van den Heuvel cited specific instances in which congregational meetings had been called by the president or secretary is untrue. What Van den Heuvel said (p. 139, l. 36) is that in 1888 or 1889, in Cleveland, two meetings were so called, but he could not remember anything about them nor remember any other meeting called thus in his experience of over twenty years (p. 133, l. 3).

At the top of page 17, counsel states that the meeting of January 9th was called by the consistory, but his own witness, Sisco, testifies that this is not so, and that no meeting of the consistory was held at which the meeting could have been called (p. 162, l. 10).

At the top of page 18 it is stated that "the entire congregation lived in the vicinity of the church." This is not supported by the evidence and is untrue, as some of the members live many miles from the church.

Many other inaccuracies and misstatements occur in Appellants' Brief, and to recite them all is impractical.

The instances cited are believed to be sufficient to show that counsel for appellants has been at least very careless in the statement of the facts in his brief.

III.

The Errors Alleged by Appellants.

A careful reading of Appellants' Brief discloses that there are but two references to alleged errors which may be stated as follows:

(*a*) The Vice-Chancellor found that the notice of the meeting of January 9th was for a consistory meeting. (Applts. Brief, foot p. 22.)

(*b*) The decision fails to recognize the distinction between a church of this and other denominations, in matters of secession. This is said to be the *vital* error. (Applts. Brief, foot p. 23.)

Considering these alleged errors: The notice referred to is the notice by which nine members of defendants' faction called the meeting of January 9th.

The original notice was in a foreign language and two translations were before the Court, one offered in evidence by these respondents (p. 97, l. 1-20) and the other produced by the appellants (p. 170, l. 25) contained in the Hornstra-Bast printed case. The appellants' version (see Applts. Brief, foot p. 22) was adopted by the Court and they cannot be now heard in objection.

The other error which is asserted by the appellants' counsel to be "vital" (Applts. Brief, foot of p. 23) is the alleged failure of the Court below "to recognize the distinction between a church of the Christian Reformed Denomination and one of any and every other denomination in matters of secession." (Applts. Brief, p. 23.)

It is evident from the argument of appellants' counsel that he intends to claim a majority vote and to assert that a bare majority of a congregation of this denomination has the absolute power

against the wishes and vote of a minority, however large, to divert the church and its temporalities to any foreign use or denomination. No authority for this novel proposition of law has been produced.

The appellants assert, for the purpose of this argument, that a majority of the congregation voted in favor of the secession, but a reference to the record discloses that there is little foundation for this claim.

There is no satisfactory proof to support appellants' contention that a majority of the voting members of the congregation were in favor of the appellants' secession.

It appears that there were in the congregation at that time 98 adult voting members in all (D-4, p. 211-214).

A number of the members of the congregation were not in good standing and entitled to vote (p. 167, l. 8).

Respondents present their roll of the adult male members who continued with them (C-12, p. 202). The appellants do not claim that ~~any~~ more than one member affiliated with respondents was under censure nor present any list of the members of their seceding faction. They do not dispute respondents' roll and it follows that they have not shown even a majority of the congregation with them. Deducting from the full voting membership of 98 members the 50 who have been concededly at all times in good standing and opposed to the defendants' secession, we have only 48 members left for appellants, and of these a "great many" were not in good standing (p. 167).

The appellants, in their brief, refer to the respondents as a small minority, but there is no basis for this statement, and the Court below found that the congregation is about evenly divided (p. 225, l. 24).

IV.

Appellants waive all objections as to form and set up justification for their acts.

The appellants in their brief (p. 5) expressly waive all objections as to form and concede the jurisdiction of the Court over the trust and property in controversy.

They admit all of the substantial charges and attempt to justify their acts as trustees (Brief, p. 9).

Vice-Chancellor Howell, who heard the case below, said of the acts of the appellants, set up in justification:

> "The whole proceeding looks to me like a high handed and lawless attempt to appropriate this church building and property to the uses of a faction of the congregation, every one of which has lost his membership in the church and has become a member of a church of a different denomination (p. 227, l. 1).

The appellants assert that there was a lawful secession of this congregation from the Christian Reformed Church of America, under which it was organized, brought about by the meeting of January 7th, 1912, and ratified at a meeting held on January 9th, 1912, and base their justification on this alleged secession. (Applts. Brief, p. 9.)

V.

The Court below properly held that the attempted secession was not binding upon Respondents.

(*a*) *The lawful method by which a meeting of the congregation may be called.*

Rev. Westenberg, who has been stated clerk of Classis for nine years (p. 74, l. 30), testifies that it is an established custom that meetings of the congregation may be lawfully called by the consistory and in no other way, and that this custom requires a notice of two weeks (p. 82, l. 10-20). See also the testimony of Rev. Hockstra, the stated clerk of General Synod (p. 88, l. 25), Rev. Tuls (p. 107, p. 35) and Rev. Bolt (p. 112, l. 18).

The defendants do not attempt to dispute this testimony and even Rev. Van den Heuvel, one of the defendants, admits this custom (p. 138, l. 12).

It is submitted that an established custom requiring two weeks' notice of a meeting of the congregation is proved (p. 82, l. 22), but, even in the absence of any established custom, a reasonable notice must be given to the members before a lawful meeting can be held.

While there is no statutory provision as to the notice necessary for the holding of a lawful meeting of congregations of this denomination, it is significant on the question of what constitutes reasonable notice, that in every place where a notice of meeting of a congregation is described in the statute relating to religious societies, a ten days' notice is required.

> All the members of an association must be notified of the time and place of a special

meeting, and of the particular purpose for which it is called, and, where no length of time is prescribed, reasonable notice must be given.

4 Cyc., 308.

In the absence of any rule providing for the call of meetings a reasonable notice must be given.

25 Am. & Eng. Ency. of Law (2nd Ed.), p. 1132, IV, 1.

And this is particularly important and necessary where business of an unusual character is to be transacted.

Id., par. 2.

The wishes of the members of a religious society cannot be regarded unless expressed at a regularly conducted meeting.

34 Cyc., 1126.

Proper notice of a meeting must be given to all of the members.

State v. Crowell, 4 Halst., 390, 421.

(*b*) *The meeting of Sunday, January 7th, 1912, was not called in a lawful manner, and the business transacted went beyond the object stated in the call.*

This meeting was called by an oral announcement by one of the members, from his pew on the floor of the church, at the close of the Sunday morning service, and was held on the afternoon of the same day (p. 43, l. 35).

It is submitted that this meeting was unlawful for the reason that sufficient notice was not given, and it was called without authority.

It is further submitted that the action taken at this meeting was of no effect for the reasons that the business transacted was beyond the object

stated in the call, and it constituted a violation of the rights of the complainants.

Only three or four hours' notice of this meeting of January 7th was given. Mr. Bast announced orally at the close of the morning service that this meeting would be held in the afternoon of the same day (p. 43, l. 35). This notice was countermanded by order of the consistory, and the congregation was notified from the pulpit that the meeting would not be held (p. 44, l. 15).

The consistory did not authorize the meeting and on the contrary directed that it be not held.

Mr. Bast stated in calling the meeting that its object was "to speak about the installation" (Pontier, p. 56, l. 15), "to discuss the installation of the newly elected elders and deacons" (Prins, p. 96, l. 1).

The defendants do not offer any evidence to dispute this testimony, except that a third person, Sisco, says that the vice-president directed that the meeting be called (p. 150, l. 18), but neither Bast nor the vice-president so testify.

The defendants' minutes of this meeting (D-2) show that the resolution adopted at that meeting went beyond the purpose as stated by Mr. Bast in the call, and purported to sever the congregation from its denomination and is stated to have received 46 affirmative votes, while two opposed and one did not vote (p. 209, l. 5).

The male voting membership of the church at this time was 98 (D-4, p. 211).

The minutes produced by defendants (D-2) show that the first business transacted at the meeting of January 7, 1912, was the election of a new president, one Zylstra, who presided at this meeting, and also at the meeting of January 9, 1912 (p. 208, l. 20).

(c) *The second meeting of January 9th,* 1912, *was not called in a legal manner and did not transact the business stated in the call.*

The notice of this meeting (p. 97, l. 1) was served on the day preceding the meeting (Stipulation, p. 164, l. 3) in the manner set forth in Exhibit D-4 (p. 211).

The meeting of Sunday, January 7th, and that of Tuesday, January 9th, are separate and independent meetings.

The first was adjourned *sine die.* (See minutes D-2.) Testimony of defendant Sisco (p. 161, l. 25). Unless at this first meeting of January 7th, the act of secession was complete, the action of that meeting, by which the disqualified minister, Van den Heuvel, was called in, and his act of installing the elders and deacons in violation of the order of consistory, was illegal. That the defendants considered the secession complete is shown by the defendants' notice to Classis on the following day, January 8th (C-14-A, p. 206, l. 20).

The meeting of January 9th was called in a manner entirely unknown in this denomination. No previous meeting is shown to have been called in this manner (p. 162, l. 26).

Meetings of a congregation of this denomination are called by the consistory (*ante*), but this meeting of January 9th, 1912, was not called by any one in authority. The notice of the meeting (p. 97, l. 1) was signed by nine individual and unofficial members of the congregation on their own initiative.

Defendant Sisco testified that this meeting was called by the consistory, but on cross-examination he admitted that the consistory as a body had nothing to do with the calling of this meeting (p. 162, l. 10). This meeting was as irregular as would be a meeting of the stockholders of the Pennsyl-

vania Railroad, or any other body, called by a number of stockholders, not officials, at which it might be attempted to change the name or business of the corporation.

The complainants did not attend this meeting because they refused to recognize the authority of the individual members to call it. (Stipulation, p. 120, C-3, p. 179).

At this meeting the only action taken was the ratification of the minutes of the Sunday meeting (see Minutes D-2, p. 210, l. 25), although the notice of the meeting stated that it was called to decide concerning the relations in case of severing from the Classis of Hudson (p. 97, l. 10).

Counsel for appellants is uncertain how many voting members attended this meeting (Applts. Brief, foot of page 21), but if we deduct from the total of 98 members the fifty who did not attend (Stipulation, p. 120, l. 20), we find that there could have been no more than forty-eight present and voting with defendants, or less than a majority.

The first meeting was irregular and illegal for the reasons above stated, and this weakness was probably realized by defendants, as their minutes recite that the question was left open for others not present to vote thereon. However, they proceeded forthwith to carry out the act of secession as though the vote was closed (p. 209, l. 18), and caused a service of installation to be performed in violation of the decision of the consistory, the competent church authority in such matters (p. 208, l. 8). They also employed a minister, Van den Heuvel, who was under ecclesiastical disability in the denomination, and they sent a communication to Classis (p. 206, C-14-A) notifyinig Classis that they had seceded. This hasty action was doubtless an attempt to forestall the action of the ecclesiastical courts in passing upon the questions in issue, but as was said in Den v. Bolton, 7 Halst.,

206, the defendants could not avoid the effect of the action of the ecclesiastical tribunal by changing their allegiance.

On January 9th, 1912, a second meeting was held by defendants as above described and an attempt made to ratify the action of Sunday afternoon (p. 208, l. 20). The method of calling this meeting clearly shows that the defendants then considered the act of secession complete. (See Notice of Meeting, p. 97.) They did not attempt to comply with any rule or custom of the church in calling this meeting. None of the officials of the church signed this call or notice of meeting, and no justification or reason for so calling the meeting is offered except that the witness Sisco testifies that they thought that this irregular notice would be more effective in bringing out the membership (p. 162, l. 17).

Defendants' expert, Van den Heuvel, concedes that it is the custom for the consistory to call meetings of the congregation (p. 138, l. 12). He said that he had known of meetings called in some other manner (p. 138, l. 25). When pressed for details he said, "I can't recollect now just where it was" (p. 139, l. 8). He later recalled *two* instances in Cleveland about twenty-five years ago, in 1888 or 1889, when two meetings had been called by himself or the secretary without the act of the consistory (p. 139, l. 12-40). He could not recall what business had been transacted at those two meetings (p. 140, l. 4). All of the other ministers testified that a meeting of the congregation can be called by the consistory and in no other way (p. 82, l. 14; p. 107, l. 36; p. 112, l. 16).

It is also customary to publish notice of important meetings of the congregation for two Sundays (p. 82, l. 20). This is not disputed by any witness.

Neither of these meetings of January 7th or 9th

were called in the usual or customary manner. Neither of them were authorized by the consistory and instead of the customary notice of two weeks, the first meeting was called by a member orally on three or four hours' notice, and the other on about twenty-four hours' notice. Neither of these notices can be said to constitute reasonable notice of so important a meeting, and there is not the slightest intimation of any reason for haste and no excuse is offered for the action of appellants' faction in attempting to rush the secession through without time for reflection.

VI.

The acts of the Defendants constitute an unlawful diversion of trust property.

The Court below held that it was a breach of trust on the part of the defendants to assist in or connive at the transfer of the property in question from one ecclesiastical body to another without the consent and concurrence of all concerned, or without a proceeding whose validity and effect is beyond contention (p. 221, l. 36).

Where the *cestui que* trust, the members of the congregation have been deprived of the privilege of worshipping in the church "which was one of the objects of the trust, they have a right to seek redress in this Court."

Ludlam v. Higbee, 3 Stock., 342.

"That a member of a religious society or corporation has a standing in court to ask for an injunction against an unlawful sale of its property by the trustee is well established by authority.

* * * The same rule prevails in those analagous cases where instead of the sale of the property, it is sought to use it for the benefit of members who have espoused a doctrine different from that of the original church."

Case note 2 L. R. A. (N. S.), 828.

The majority of the trustees of a church who support the pastor in his purpose of changing the ecclestiastical connection of the church, will be restrained by injunction from diverting the property and revenues of the church to the use of another religious denomination.

First Reformed Presby Church v. Bowden, 10 Abb. N. C. 1, affd. 14 Abb. N. C., 358.

The trustees and a majority of the congregation cannot withdraw the property from its connection with the denomination against the protest of the minority, and may be enjoined from so doing.

Fuchs v. Meisel, 102 Mich., 357; 32 L. R. A., 92.

Where trustees continue as minister, one who has been deprived of holy orders, they may be enjoined.

Isham v. Fullager, 14 Abb. N. C., 383.
Robertson v. Dullions, 9 Barb., 64.

A suit to restrain the pastor from longer occupying the parsonage of a church and from permitting the pastor to remain is maintainable by a member of the congregation.

Everett v. First Presby. Ch., 53 N. J. Eq., 500.

A member of a church corporation has the undoubted right to prevent by injunction, the corporation or a majority of its members, from committing a breach of the trust. This is one of the oldest and most important heads of equity jurisdiction.

Wiswell v. First Cong. Church, 14 Ohio St., 31.

Any member of a religious society may maintain an action to restrain the trustees from diverting the church property for the use of another denomination.

First Refd. Presby. Ch. v. Bowden, 10 Abb. N. C., 1; affd. 14 Abb. N. C., 358.

Those members of a church and congregation who adhere their ecclesiastical connection with the church judicatories to which they were subordinate when the property of the church was acquired, and who have kept up a proper corporate organization, are entitled to the temporal properties of the church and to its books and papers, and interference with their control or enjoyment of the property will be enjoined by a perpetual injunction.

Miller v. Gable, 10 Paige, 627; 2 Denio (N. Y.), 492.

See also other cases cited in note 3 L. R. A., 868, *et seq.*

The remedy by injunction is peculiarly adapted to a controversy of this nature.

Brundage v. Deardorf, 92 Fed. Rep., 214.

Chancery will guard jealously against any perversion of the trust estate by the corporation.

Van Houten v. First Reformed Dutch Church, 2 C. E. Gr., 126.

It is well settled in this state, that the act for the incorporation of trustees of religious societies is not an act for the incorporation of the society, but of the trustees, to the end that the corporation may hold the temporalities of the society in trust.

Rage v. Asbury M. E. Church, 78 Atl. Rep., 246.
Morgan v. Rose, 7 C. E. Gr., 583.

The question presented here is the legality of the attempted diversion of the trust property, church and temporalities.

The dispute is between the *cestui que* trust and those who claim the right to use and dispose of the trust property in violation of complainants' asserted rights.

The enforcement and protection of trusts is a matter peculiarly within the jurisdiction of courts of equity, and the jurisdiction of such courts to declare and enforce trusts and supervise the administration thereof is undoubted.

22 Ency. Pl. & Pr., 10.

"Wherever an element of trust exists, equity has jurisdiction."

22 Ency. Pl. & Pr., 15.
Kimball v. Morton, 5 N. J. Eq., 26.

"Equity jurisdiction having attached upon the grounds of a trust, the jurisdiction will be retained and the whole matter disposed of."

22 Ency. Pl. & Pr., 20.

A court of equity is the proper tribunal to adjust the rights and liabilities between trustees and their *cestui que* trustent.

22 Ency. Pl. & Pr., 135.

The *cestui que* trust, as being the real party in interest, may maintain a bill in equity for the benefit of the trust estate and the protection of his interests.

22 Ency. Pl. & Pr., 158.

One beneficiary may sue on behalf of himself and all others similarly situated where the beneficiaries are numerous and it is impracticable to make them all parties.

22 Ency. Pl. & Pr., 165.

It is provided by statute "that it shall be lawful for any religious society in this state, *however incorporated,* to purchase and hold * * * real estate * * * provided that the same shall not be used by the religious corporation acquiring the same *for any other purpose than* the rendering and maintaining in any building now or hereafter erected upon such real estate, the worship of Almighty God and the furtherance of religion, *according to the tenets and forms of worship of the religious denomination to which such religious society belongs, etc.*"

Religious Societies, 3 Gen. Stat., p. 2736, sec. 8.

VII.

The Defendants could not by their secession deprive the ecclesiastical courts of jurisdiction.

Every member of a church has an implied contract with the other members that the ecclesiastical connection and government of the congregation will continue.

Am. Prim. Society v. Pilling, 24 N. J. Law (4 Zab), 653.

Members of the religious society cannot deprive the Classis of its jurisdiction by changing their allegiance.

Den v. Bolton, 7 Halst., 206, 240.

"There is an implied obligation or contract that the members will be fairly treated and that good faith will be maintained between them."

7 Am. & Eng. Ann. Cas., 766.

Every person entering into a religious society impliedly, if not expressly, covenants to conform to its rules and submit to its authority and discipline.

34 Cyc., 1123.

VIII.

The Defendant Van Den Heuvel was properly enjoined from officiating as minister.

The defendant admits that he has been expelled from the denomination (p. 144, line 8).

The appellants do not assert that there is any error in this respect.

An injunction will lie to prevent an unlawful intrusion into the church pulpit of an alleged pastor.

Bundage v. Deardorf, 56 Fed. R., 830.
Prickett v. Wells, 117 Mo., 503.
Founder v. Asche, 44 Neb., 672.

One who does not hold or teach the doctrine of the Reformed Dutch Church may be enjoined from occupying the pulpit of a church of that denomination.

Suter v. Spangler, 4 Phila., 331.

IX.

The petition of the Supreme Court on the petition for leave to file a quo warranto and its effect.

One of the branches of this controversy was presented to the Supreme Court in the case of Hornstra v. Bast (not reported). The record of that case is not properly before this Court and was not marked in evidence in the Court below, but is referred to in Appellants' Brief (p. 25). The evi-

dence in that case is *not* the same as that before the Court of Chancery in this case.

Appellants concede (Brief, p. 25) that the Vice-Chancellor correctly held that that decision "cannot be considered conclusive between the parties to this cause."

The proceeding was instituted as a result of an order of the Court of Chancery (p. 19, l. 36).

In its opinion in Hornstra v. Bast, the Supreme Court says: "We think the case at bar in its essential features is akin to the case of Pulis v. Iserman (71 N. J. Law, 408), and it is submitted that, in this respect, the Supreme Court misapprehended the facts.

An examination of the facts proved in the two cases shows that they are different in their essential features.

In the case of Pulis v. Iserman, the opinion recites that the congregation of the Paramus Church in December, 1898, resolved to withdraw from Classis and Synod of its denomination, and that "at the meeting which adopted this resolution 53 persons, including all the members of the congregation entitled to vote, except ten, were present and unanimously voted in favor of the resolution, besides four of the absent members, who by proxy voted likewise."

The method by which this meeting was called does not appear, but it is said that each member had "*due notice,*" and it appears that no one expressed a dissent from this action from the date of this meeting, in December, 1908, until *four years* later, in December, 1902, when *Classis* voted to depose the defendants and remove them from office.

The difference between this state of facts and those of the case at bar are apparent.

In the present case the undisputed facts are that the meeting was called in an irregular manner

and that of the 98 male voting members of this congregation on January 7th, 1912 (Exhibit D-4, p. 211), there were only 49 present at the meeting of that day, of whom "46 declared themselves in favor of severance, 2 against and one held himself neutral." (Exhibit D-1, Minutes, State of Case, p. 209, l. 10.)

At the meeting of January 9th, which was also called irregularly, the defendants assert there were present fifty-five persons (p. 166), but do not give their names, and admit errors in the count (p. 170, l. 10-20) and even appellants' counsel is uncertain as to the correct number. (Brief, p. 21.)

The complainants' congregation numbers about 330 (p. 126, l. 20), of whom 48 are male voting members (Exhibit C-12, p. 202), and 108 adult members have at all times held to the original Northside Church organization and consistently protested against the action of defendants and their associates (Exhibit C-3, stipulated as evidence, p. 120, l. 20). It is admitted by stipulation (p. 120, l. 20) and not disputed, that these members be deemed to have testified that they did not attend the meetings of January 7th and January 9th, for the reason that they believed that these meetings were called in an unlawful manner.

In this case we find that at the time of the first meeting of January 7th, at which the attempted secession took place, 50 members were opposed to the secession (Stipulation, p. 120) and 46 members favored it (p. 209, l. 10). The minutes of the second meeting of January 9th (p. 210, l. 25) do not disclose the number present and voting, but recite that in addition to the number previously voting, five "had later voted in favor" (p. 210, l. 28). A number are said to have been disqualified to vote (p. 167, l. 28). Their names are not given by appellants, but as the number opposed to the secession, as above stated, was 50, and the total male

membership was only 98 (p. 211), there could not have been a majority, including those disqualified, who favored the secession. Both of these meetings were irregular and illegal (p. 222, l. 25; p. 224, l. 6).

Those who opposed the secession continued their "congregation and church exercises without any break" (p. 225, l. 25) and appealed to Classis within two days (p. 181).

It is submitted that this discloses a state of facts very different from those in Pulis v. Iserman, where the Court based its decision upon the fact that *after four years* of acquiescence, "no loyal elements existed for reconstruction." It is difficult to see how the relators and their 109 associates here could have more promptly or more strongly shown their loyalty to their church and to the Christian Reformed denomination, short of actual armed combat or resort to force.

They invoked the aid of their ecclesiastical tribunal within twenty-four hours (p. 60, l. 5). They continued their regular church services without interruption (p. 61, l. 10). They promptly applied to the Court of Chancery for injunctive relief.

The Supreme Court said in its opinion in Hornstra v. Bast: "We think substantially and for all practical purposes, notice of the ratification meeting on January 9th was given and that it cannot be reasonably urged that any member was mislead as to that meeting."

It is respectfully submitted that even though it be conceded that no member was *mislead* by the notice, something more is required to constitute a lawful meeting.

The appellants and their associates were then asserting, as appears from the evidence (p. 206, l. 30) that they were severed from Classis and from the denomination.

By attending this meeting the respondents and their associates might have been held to have waived the irregularity in the notice. The respondents were not compelled to attend a meeting simply because some of the members of the congregation without authority requested it, under penalty in case of refusal to be deprived of all rights in the temporalities and property. It is submitted that a member of a church or of any other society or organization is called upon to attend those meetings only to which he is summoned in a lawful manner.

X.

The appeal should be dismissed and the decree affirmed.

Respectfully submitted,

ANDREW FOULDS, JR.,
LEWIS A. ALLEN,
Of Counsel with Respondents.

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Bill of Complaint.

(Filed March 13, 1912.)

In Chancery of New Jersey.

To his Honor Mahlon Pitney, Chancellor of the State of New Jersey:

Humbly complaining showeth unto your honor, your orators, John Schilstra, Nick Hornstra, Herbert Prins, Leonard Wynbeek, and William S. Pontier, all of the City of Passaic, County of Passaic and State of New Jersey, members of the North Side Christian Reformed Church of Passaic, with the approval and on behalf of the members of said North Side Christian Reformed Church, who are similarly situated, bring this as their amended Bill of Complaint, and your orators respectfully show:

1. That in the year nineteen hundred and five, and prior thereto, one of the congregations of Christians composing the Classis of Hudson, of the denomination known as the Christian Reformed Church of America, was the congregation known as the congregation of Passaic, worshipping in a church building located on Hope avenue, in the City of Passaic, County of Passaic and State of New Jersey, and known as the Hope Avenue Church; that in January of said year there was contemplated the formation of a new congregation, by reason of the large increase in the number of its members; that at said time several of the members favored the erection of an additional church building in the northwestern section of the City of Passaic; that the subject was discussed at meetings of the congregation and consistory of the said church in the early part of the year nineteen hundred and five; that with the approval of the

congregation and consistory of the Hope Avenue Church aforesaid, there was duly organized at said time, a new congregation of said denomination composed of members formerly belonging to the said Hope Avenue Church, which new congregation was known as the Congregation of North Side and was duly organized and the consistory thereof duly installed in all respects in accordance with the laws governing the Christian Reformed Church of America, and said congregation so formed became and was at all times thereafter, subject to Classis of Hudson aforesaid, and the laws and regulations governing the Christian Reformed Church of America; and said new congregation continued in friendly relations with the aforesaid Hope Avenue Church, and the said Hope Avenue Church did contribute to the said congregation of North Side for the purposes and use of said congregation as a church of the Christian Reformed denomination the sum of one thousand dollars.

2. That thereafter, as it was desirous of acquiring and holding real estate and erecting a church edifice and parsonage, the said congregation did duly elect trustees and duly effect the incorporation of the same as trustees of its said religious society by virtue of an act of the Legislature of this State entitled "An Act to Incorporate Trustees of Religious Societies"; approved April 9th, 1875, and the several supplements and amendments thereto; and to that end the trustees so elected did take upon themselves the name "The Minister, Elders and Deacons of the North Side Christian Reformed Church of Passaic," and did duly file their certificate with the clerk of the Court of Common Pleas of the County of Passaic, on the twenty-second day of July, nineteen hundred and five, as by the said certificate of incorporation, or a duly certified copy thereof, here in court to be produced, will more fully and at large appear and the said trustees did fully comply with all of the laws relating to trus-

tees of religious corporations, and did duly perfect the formation of the corporation.

3. That the said religious society accumulated funds and purchased lands in the City of Passaic and erected thereon a church or place of worship, and a parsonage for its pastor, of the value of twenty-two thousand dollars, which said church and parsonage are erected upon all that tract of land and premises hereinafter particularly described, situate, lying and being in the City of Passaic, County of Passaic and State of New Jersey; beginning at the northwesterly corner of Burgess Place and Myrtle avenue, and running thence westerly along the southerly side of Burgess Place two hundred and eleven and twenty-three hundredths feet; thence southerly at right angles with the first course one hundred and twenty-five feet; thence easterly and at right angles with the second course one hundred and eighty-five and thirty-two hundredths feet to the westerly side of Myrtle avenue; and thence northerly and along the said westerly side of Myrtle avenue one hundred and twenty-seven and sixty-five hundredths feet to the point or place of beginning.

4. That since the erection of said church some time in the year nineteen hundred and seven, the members of the congregation aforesaid, have occupied the said church as a place of worship in conformity with the laws and regulations concerning the Christian Reformed Church of America, and subject to all the rules and regulations thereof.

5. That the Christian Reformed Church of America is a religious society or denomination of Christians established in the United States of America, and having a duly organized system of church government and composed of a number of societies of Christians of the said denomination organized in branches or churches, each governed by a consistory composed of ministers, elders and deacons who hold stated meet-

ings and at which the minister presides. The several churches in each particular district are governed by a classis, which comprises the ministers of each church in said district and an elder from each of said churches or congregations, and holding meetings at stated intervals. The Classical Assemblies, or Classis, are governed by a particular synod in district where such particular synod exists and which is composed of two ministers and two elders from four or more neighboring classis, and meet once a year, and more often if necessary. The particular synods and other assemblies are governed by a general synod, which is the supreme governing body of the said religious society or denomination of Christians. It is provided by the rules and laws governing the said denomination that no new consistory shall be constituted in any place without the advice and concurrence of classis of the particular district, and there is lodged in classis the powers, among other things, of continuing combinations of churches, and each church or congregation and the consistory thereof and the minister in each particular district are subject to the rules and laws governing the said denomination and to the rules and regulations of classis. The classis is subject to the particular synod where one exists and the particular synod and classis to the general synod as aforesaid. Pursuant to the laws and regulations governing the said churches, the elders and deacons of each congregation are chosen by the judgment of the consistory thereof, who may nominate for the approval of the members of the church the persons to constitute the succeeding consistory or the consistory may nominate a double number of candidates from whom the members of the congregation may choose the deacons and elders to constitute the next succeeding consistory. After the choice or selection of the deacons and elders, as aforesaid, their confirmation is delayed for a period of not less than two weeks, during which time the

members of the congregation may object to their confirmation, and in the event that objection is made to their confirmation they cannot be confirmed until after such objection shall have been considered and disposed of by the then existing consistory of said congregation.

Until the confirmation of the elders and deacons by the then existing consistory the deacons and elders so elected have no power or authority to act or to occupy their said offices. The ministers of the said several churches are subject to removal by the action of classis of their particular district and may be by said classis suspended, deposed or removed from office.

6. That the North Side Christian Reformed Church and all of the congregations of the Christian Reformed Church of America are subject to certain laws and regulations known as the Articles of Dort to which articles or a duly proved copy thereof here in court to be produced your orators beg leave to refer.

7. That it is provided by the articles aforesaid that the elders and deacons of the several congregations of said denominations may be removed and deposed from their said offices by the determination of the consistory of their own and next adjacent church.

That the next adjacent church of the North Side Christian Reformed Church aforesaid within the meaning of the article aforesaid was at the times herein mentioned and still is the Hope Avenue Church of said Christian Reformed denomination.

8. That the elders and deacons of said several congregations and the elders and deacons of the said North Side Christian Reformed Church of Passaic and the defendant elders and deacons are required to and did as a part of their ordination, execute and subscribe a certain formula containing among other things an agreement in the Holland language a true translation of which is "cheerfully to submit to the judgment of the consistory, classis and synod, under

the penalty in case of refusal to be *ipso facto* suspended from our office."

9. That during all the times herein mentioned the said congregation of North Side and the minister thereof were subject in all respects to the laws and regulations aforesaid, and the other laws and rules and regulations governing the religious denomination known as the Christian Reformed Church of America.

10. That on and prior to the third day of August, nineteen hundred and eleven, your orators were and still are members in good and regular standing of the congregation of North Side aforesaid.

11. That on and prior to the third day of August, nineteen hundred and eleven, the minister of said congregation of North Side was Arie J. Van den Heuvel, a minister of the Christian Reformed Church of America, and subject to the laws and regulations aforesaid and of all of the laws and regulations governing the churches of the denomination known as the Christian Reformed Church of America, and was subject to removal or suspension or other action by the classis of the said district, being the Classis of Hudson.

12. That on or about the said date the Classis of Hudson, to which said congregation of North Side, the corporation "The Minister, elders and deacons of the North Side Christian Reformed Church of Passaic" and Arie J. Van den Heuvel, its minister aforesaid, were then subject, did, after due proceedings had for that purpose, and in accordance with the laws and regulations governing the said denomination, find said Arie J. Van den Heuvel guilty of improper and imprudent conduct and did require him, among other things, to make open confession of those sins and to reconcile himself with his consistory and his congregation aforesaid, as by the minutes of the meeting of the Classis of Hudson held on the third day of August, nineteen hundred and eleven, or a duly proved copy thereof here in

court to be produced, will more fully and at large appear.

13. That thereafter, pursuant to due proceedings had in accordance with the laws governing the said Church and Classis, Classis of Hudson, did, pursuant to the authority vested in it, at a session thereof held on or about the twenty-third day of November, nineten hundred and eleven, find and decide, among other things, that said classis is necessitated, although with deep sorrow, to come to the decision to sever the connection between the Rev. Van den Heuvel and his congregation, being the congregation of your orators aforesaid, known as the congregation of North Side, and said classis did prescribe the manner in which its decision as aforesaid was to be carried out, all of which was pursuant to the authority vested in said classis by the laws and regulations governing the said Christian Reformed Church of America.

14. That thereafter, and on or about the thirteenth day of December, nineteen hundred and eleven, Classis of Hudson did duly decide to postpone the carrying out of its determination aforesaid until the meeting of the Synod, but did provide that until the time of Synod's decision the Minister aforesaid should have vacation and withhold himself from all work in the congregation, and that classis would provide in the meantime ministers to take charge of its services, all of which was in accordance with the laws and regulations governing the said church.

15. That it is provided by the Church Laws aforesaid that the elders and deacons would serve two years and the one half changed annually. That in the months of November and December, nineteen hundred and eleven, the consistory of North Side did choose new elders and deacons, to take the places of your orators John Schilstra, Nick Hornstra, and Herbert Prins as elders, and of William S. Pontier as deacon. That at said time the Consistory comprised as elders

your orators John Schilstra, Nick Hornstra and Herbert Prins, with the defendants Martinus J. Bast and J. Groenhof and as deacons your orators Leonard Wynbeek, and William S. Pontier with the defendant Peter H. Van der Plaat and Christofel Bergsma. That the new elders chosen at said times were Frank De Ruiter, John Zylstra (known also as Sisco) and Gerlof De Ross, as elders and Siebe Boosma and Martinus Haakmeester as deacons.

16. That after the choice as aforesaid, of the new members of the consistory, objection was made to their confirmation and the consistory did, pursuant to its powers and authority, duly decide to delay the confirmation of the new deacons and elders and the confirmation thereof was delayed, whereby no official function or authority was or could be conferred upon the said newly elected members.

17. That thereafter, in violation of the laws and regulations governing the congregation of North Side aforesaid and in violation of the rights of the members of said congregation who remained faithful to the Christian Reformed Church of America, and in violation of the rights of your orators, certain members, without authority, did pretend to install and confirm the said newly elected elders and deacons, in the absence of your orators and the majority of members of said congregation and in the presence of a small part only of said members. This said attempted action was illegal and void.

18. That thereafter on the eighth day of January, nineteen hundred and twelve, the consistory of said North Side Christian Reformed Church, together with the Consistory of Hope Avenue Church, being the next adjacent church and constituting the lawful church judicatory for that purpose did, pursuant to the authority vested in it, by its determination duly depose from office as elders, the defendants Martinus J. Bast and John Groenhof, and did duly depose from their

office as deacons the defendants Peter H. Vander Plaat and Christofel Bergsma.

That thereupon the said Martinus J. Bast and John Groenhof did wholly cease to be elders of said church, and members of the consistory thereof, and said defendants Peter H. Vander Plaat and Christofel Bergsma did wholly cease to be deacons of said church, and members of the Consistory thereof.

That the aforesaid action of said church judicatory still remains in full force and effect.

19. That at a meeting of the consistory of said North Side Christian Reformed Church held on the ninth day of January, nineteen hundred and twelve the Consistory of the North Side Christian Reformed Church, pursuant to the authority vested in it and in accordance with the laws governing said church did, duly put upon the first step of church discipline and censure the defendants Nicholas Reinstra, John Zylstra Sisco, Frank De Ruiter, Gerlof De Roos, Siebe Roosma and Martinus Haakmeester whereby they and each of them became disqualified from holding any office in said church or performing any official function or duties during the time said action of the consistory remained in force and effect and that said action still remains in full force and effect all of which will more fully and at large appear by the minutes of said meetings or a duly proved copy thereof here in court to be produced and to which your orators beg leave to refer.

20. That at a meeting of the Classis of Hudson, held on or about the eleventh day of January, nineteen hundred and twelve, after the consideration of the acts aforesaid, and pursuant to the authority possessed by it, and in accordance with the laws and regulations governing the said church and denomination, did find and decide that the attempted confirmation of the new elders and deacons and consistory of the congregation of North Side, as aforesaid, was illegal and that all ac-

tions taken at the meeting called as aforesaid cannot be regarded as legal resolutions or actions of the congregation of North Side, and that your orators constitute the legal consistory of the congregation of North Side and that the consistory composed of your orators remains legally such until a change is made, in accordance with the regulations and laws governing the said Christian Reformed Church, or until further action to the contrary by the classis; that the attempted installation of the new members of the consistory is illegal.

21. That pretending to act as the consistory of North Side congregation, the said defendants, with others associated and confederating with them whose names your orators are unable to ascertain, but pray leave to insert in this bill when ascertained, did pass a resolution to employ Arie J. Van den Heuvel as aforesaid, as their minister, and to secede from the Classis of Hudson, and from the Christian Reformed Church of America, and did attempt to divert the church building, real property, personal property and effects, together with the records and documents belonging to the said congregation of North Side and the Minister, elders and deacons of the North Side Christian Reformed Church of Passaic, from the lawful possession of the said church, and from your orators and the other members of said church, and from the denomination of the Christian Reformed Church of America, and to convert the same to unlawful and improper purposes, in violation of the laws of the said church, and to exclude your orators therefrom and from the privilege of worshiping in said church.

22. That the Classis of Hudson did at said meeting duly called on or about the eleventh day of January, nineteen hundred and twelve, and pursuant to the authority possessed by it, and in accordance with the laws governing said church, resolve to remove and did remove Arie J. Van den Heuvel from his ecclesiastical

functions as a minister of the Christian Reformed Church of America, and did, after a full consideration of all of the facts, and after proper deliberation and pursuant to its authority find and decide that the legitimate consistory of the congregation of North Side comprises as elders, your orators, Nick Hornstra, Herbert Prins and John Schilstra; and as deacons, your orators, William S. Pontier and Leonard Wynbeek, and that they, as aforesaid, constitute and legally appointed Board of Trustees and in possession of all of the properties of said congregation of North Side, and said classis did thereupon authorize your orators, comprising said consistory, to carry into effect the resolutions of classis aforesaid, and to retain by process of law, possession of the church property, all of which will more fully appear by the minutes of the meeting of Classis of Hudson aforesaid held on the eleventh day of January, nineteen hundred and twelve, or a duly certified copy thereof, here in court to be produced.

23. That in violation of the decision of classis and the laws governing the said church, the defendants have called and employed as their minister, the said Arie J. Van den Heuvel, and refused to recognize the action of classis in removing him from his ecclesiastical functions and the said defendants do threaten to expel your orators and their associates from membership in the church aforesaid. And your orators have frequently and in a friendly manner applied to the said defendants and urged them to endeavor to settle their differences and to submit the same to the governing bodies of the said church, or to appeal from the determinations of consistory and classis to the proper church tribunals which under the laws governing the said church have the power and authority to hear and determine appeals from inferior bodies, but the said defendants refused to comply with the reasonable demands of your orators aforesaid, and in

fact are violating the conditions of their trust and are taking possession of the church property wrongfully and managing the same and attempting to conduct the church services thereof and are collecting and receiving moneys belonging to the said congregation and withholding them from your orators and they have collected a large sum of money, how much exactly your orators are unable to state, and refuse to account for the same to your orators, and are attempting to conduct church services in open defiance of the rules of government provided for the church as aforesaid and diverting the property of the church from the purpose for which it was designed and organized, and to devote it other uses and purposes.

24. That thereafter the said defendants and their associates and confederates did present to Classis of Paramus of a denomination foreign to and not connected with the denomination the Christian Reformed Church of America, being a denomination known as the Reformed Church of America, a petition praying to be admitted and accepted as a congregation with consistory and minister in said last named foreign denomination.

25. That by said act the defendants Gerlof DeRoos, John Groenhof, Frank DeRuiter, John Zylstra Sisco, Martinus J. Bast, Martinus Haakmeester and Peter H. Vander Plaat did cease to be and remain elders and deacons of the North Side Christian Reformed Church, and did cease to be within the denomination of the Christian Reformed Church of America and by reason of this refusal to submit to the judgment of the consistory and classis of said church and denomination did become *ipso facto* suspended from their said offices.

26. That the elders and deacons of said church are by reason of their said office trustees of the church property and hold the said property as trustees for the use of your orators and the other members of the

congregation for worship as a congregation of the denomination aforesaid known as the Christian Reformed Church of America.

27. And your orators further show that the sexton of said church, the defendant Nicholas Reinstra, wrongfully holds possession of the said Church property against your orators and other members of said church, and refuses to permit your orators and their associates to have access to the property aforesaid, or to conduct church services in the said building.

In tender consideration whereof, and for as much as your orators are without remedy in the premises at and by the strict rules of the common law, and can only obtain relief in this Honorable Court where matters of this nature are properly cognizable relievable.

To the end, therefore, that the said Arie J. Van den Heuvel, Nicholas Reinstra, Peter H. Vander Plaat, Martinus J. Bast, John Groenhof, Frank DeRuiter, John Zylstra Sisco, Siebe Roosma, Gerlof DeRoos, Martinus Haakmeester and Christofel Bergsma, may but not upon oath, oath being waived, to the best of their several knowledge, remembrance, information and belief, full, true and perfect answer make to all and singular the matters aforesaid, and that the defendants, Arie J. Van den Heuvel, Nicholas Reinstra, Peter H. Vander Plaat, Martinus J. Bast, John Groenhof, Frank DeRuiter, John Zylstra Sisco, Siebe Roosma, Gerlof DeRoos, Martinus Haakmeester and Christofel Bergsma may, and each of them may be restrained both provisionally and perpetually from closing the church and parsonage of the congregation of North Side Christian Reformed Church of Passaic, N. J., and the minster, elders and deacons of the North Side Christian Reformed Church of Passaic against your orators and against such minister as may be duly authorized to be the minister in charge, and further from closing the said church against your orators and all other members of the congregation desir-

ing to use the church as a place of worship under and in accordance with the doctrine, discipline and rules of the Christian Reformed Church of America, and that they and each of them may be restrained in like manner from acting or pretending to act as elders or deacons or members of the consistory of the North Side Christian Reformed Church and as trustees thereof and from diverting or attempting to divert the property of the church aforesaid from the Christian Reformed Church of America, and for a preliminary injunction in like manner and that it may be decreed that the attempted secession of the defendants and their associates from the Classis of Hudson was and is null and void, and that your orators constitute the legal consistory of the said church, and that the said defendants, their associates, ministers, attorneys and agents, be enjoined to desist and refrain from in any manner entering upon or taking possession or control of the house of worship aforesaid, or any part of said lands or premises or books, records or minutes or personal property of the North Side Christian Reformed Church, and that the said defendants and each of them be restrained and enjoined from the further use and usurpation of said premises and the defendants be commanded by the order and decree of this court to surrender the possession and control of all of the church property, including the said house of worship and parsonage and other buildings erected upon the premises, and all the books, records, documents and other personal property of every description which belongs to or were in the possession, use and enjoyment of your orators before and at the time of the secession aforesaid, and that for that purpose an injunction issue out of this court commanding and restraining the said defendants accordingly, and that a receiver be appointed to take possession of all of said premises, including the house of worship and parsonage and other buildings erected upon said premises and all the records, books, documents and other per-

sonal property of every description, which belongs to and were in the possession and enjoyment of your orators before and at the time of the said secession, with full power to the said receiver to let the said premises and to collect the rents, issues and profits thereof, and to hold the same subject to the order and decree of this court, and that the said Arie J. Van den Heuvel be restrained provisionally and perpetually from occupying the pulpit of the North Side Christian reformed Church of Passaic, and the parsonage and other property thereof, and from acting as the minister thereof, and that the defendants and each of them be restrained both provisionally and perpetually from using the name "The North Side Christian Reformed Church" in any manner for their said church or organization, either alone or in connection with other words; and for such other and further relief as to your honor shall seem meet and shall be agreeable to equity and good conscience.

May it please your Honor, the premises considered, to grant unto your orators not only the State's writ of injunction, issuing out of and under the seal of this Honorable Court to be directed to the said defendants, Arie J. Van den Heuvel, Nicholas Reinstra, Peter H. Vander Plaat, Martinus J. Bast, John Groenhof, Frank DeRuiter, John Zylstra Sisco, Siebe Roosma, Gerlof DeRoos, Martinus Haakmeester and Christofel Bergsma, restraining them and each of them both provisionally and perpetually, as hereinabove prayed, and also the State's writ of subpoena issuing out of and under the seal of this Honorable Court to be directed to the said Defendants Arie J. Van den Heuvel, Nicholas Reinstra, Peter H. Vander Plaat, Martinus J. Bast, John Groenhof, Frank DeRuiter, John Zlystra Sisco, Siebe Roosma, Gerlof DeRoos, Martinus Haakmeester and Christofel Bergsma, commanding them and each of them by a certain day and under a certain penalty therein to be expressed, to be and appear before your

Honor in this Honorable Court, then and there to answer all and singular the premises and to abide by and perform such order or decree herein as to your honor shall seem meet and shall be agreeable to equity and good conscience.

And your orators, as in duty bound, will ever pray, etc.

LEWIS A. ALLEN and
ANDREW FOULDS, JR.,
Solicitors of and of Counsel with Complainants.

Restraining Order.

(Filed March 29, 1912.)

IN CHANCERY OF NEW JERSEY.

Between

JOHN SCHILSTRA, *et als*,
Complainants,

and

ARIE J. VAN DEN HEUVEL, *et als*,
Defendants.

On Bill, &c.

This cause being opened to the court on the Rule to Show Cause granted on the thirteenth day of March, nineteen hundred and twelve, in the presence of Lewis A. Allen and Andrew Foulds, Jr., of counsel with complainants, and George H. Dalrymple, and William R. Ryan, of counsel with the defendants.

IT IS, on this twenty-eighth day of March, nineteen hundred and twelve,

ORDERED: That the preliminary injunction and restraining orders heretofore made and entered in the above stated cause be vacated to the extent hereinafter indicated and that the complainants and their associates shall have the possession, use and control of the church edifice and temporalities of the North Side Christian Reformed Church of Passaic, N. J., on Sunday of each week during the forenoon and until one o'clock in the afternoon of said day, and that they shall then cease to have any right to interfere with the matter of services in the said church from that hour until six o'clock each Sunday evening, and that between the hours of one o'clock and six o'clock on

each Sunday afternoon, the defendants and their associates shall have the right to have such services in said church as they may desire and for this purpose the injunction heretofore issued in the above stated cause against the Reverend Arie J. Van den Heuvel is to be suspended to the extent necessary for that purpose.

It is Further Ordered that the complainants and their associates are to be permitted to have the church edifice and temporalities aforesaid from six o'clock on each Sunday evening for such divine services therein as they desire to have conducted from said hour until the end of the day.

It is Further Ordered that on Monday, Wednesday and Friday of each week the complainants and their associates are to have the undisturbed possession of the church building and temporalities and that on Tuesday, Thursday and Saturday of each week the defendants and their associates shall have the exclusive right to the use of the church building.

It is Further Ordered that neither party shall interfere in any way with the services, management or business of the other during the time so set apart for the uses of the other party.

It is Further Ordered that the complainants and their associates and the defendants and their associates may respectively take up their collections or collect whatever moneys, in the ordinary way they do collect them, and hold and disburse the same by their own treasurer or other fiscal officer, respectively, but that all common expenses of the church, that is, for all things which are not for the peculiar advantage of either particular party shall be subject to be borne equally by both treasuries, and for this purpose application may be made by either party to this court, upon two days' notice to the other, for an order requiring the payment of any expenses which the party making the application thinks should be

paid jointly out of the two funds to the end that the court may make such order as may be proper for the payment of such moneys.

IT IS FURTHER ORDERED that for the present the janitor now in charge may remain in charge of the church subject to the order of this court, and

IT IS FURTHER ORDERED that Nicholas Rienstra, the janitor as aforesaid, shall see that the church is open at all times arranged for the use of the respective parties as aforesaid and that a copy of this order be given to him.

IT IS FURTHER ORDERED that each of the parties, to wit, the complainants and the defendants, have keys to the church building.

IT IS FURTHER ORDERED that the minister of the defendants may continue to occupy the church parsonage, the complainants consenting thereto, until the further order of the court, and that there be paid by the treasurer of the defendants to the treasurer of the complainants the sum of seventeen dollars and fifty cents ($17.50) per month, on the first day of each month, being one-half of the amount of the agreed rental of the said parsonage, until the further order of the court.

IT IS FURTHER ORDERED that the books of the church be deposited with William W. Watson, Esq., a master of this court, subject to inspection at all times by the parties to this cause and their associates, and that all parties refrain from making further entries in said books until the further order of the court. And that the said books remain in the possession of William W. Watson until the further order of the court.

IT IS FURTHER ORDERED that unless prior to the first day of May, nineteen hundred and twelve quo warranto proceedings be commenced or instituted to determine the title of office of certain of the parties hereto an application be made to the court by either party to

dismiss any injunction or restraint or for other relief in this cause.

IT IS FURTHER ORDERED that except as herein modified, the injunction and restraint heretofore granted remain in full force and effect.

MAHLON PITNEY,
C.

Respectfully advised,
LINDLEY M. GARRISON,
V. C.

Answer.

(Filed September 5, 1912.)

IN CHANCERY OF NEW JERSEY.

Between

JOHN SCHILSTRA, *et als*, *Complainants*,

and

ARIE J. VAN DEN HEUVEL, *et als*, *Defendants*.

On Bill, &c.

The joint and several answer of the defendants, Arie J. Van den Heuvel, Nickolas Reinstra, John Z. Sisco, Martinus J. Bast, John Groenhof, Peter H. Vander Plaat, Frank DeRuiter, Martinus Haakmeester, Siebe Roosma, Gerlof DeRoos and Christophel Bergsma, to the bill of complaint of the complainants. The defendants, now and at all times hereafter, reserving to themselves all manner of benefit and advantage of exception to the many uncertainties and defects in the complainants' said bill of complaint contained, have answer thereto or unto so much and such parts thereof as they are advised is material and necessary for them to make answer unto, answer saying:

These defendants admit that in the year nineteen hundred and five there was a congregation of the denomination known as the Christian Reformed Church of America, worshipping in the church building located on Hope avenue, in the said City of Passaic; that in the month of January of the said year a new congregation was formed by a number of members of said

congregation, who favored the erection of an additional church building in the northwesterly section of the City of Passaic, and that the said congregation, when so organized, was known as the congregation of the North Side Christian Reformed Church of Passaic, New Jersey; that a consistory was elected in all respects in accordance with the laws governing the Christian Reformed Church of America; that delegates were sent to each meeting of the Classis of Hudson. These defendants further admit that it is true that the congregation known as the Hope Avenue Church did contribute to the North Side congregation the sum of one thousand dollars, but deny that such contribution was for the purpose and use of said congregation as a church of the Christian Reformed denomination. These defendants admit that it is true that the congregation of the North Side Christian Reformed Church elected trustees and duly effected the corporation of the North Side Christian Reformed Church of Passaic, by virtue of an act of the Legislature of the State of New Jersey, entitled, "An Act to Incorporate Trustees of Religious Societies," approved April 9th, 1875, and the several supplements thereto and amendments thereof, and took upon themselves the title, The Minister, Elders and Deacons of the North Side Reformed Church of Passaic, New Jersey, and filed their certificate of incorporation with the clerk of the Court of Common Pleas of the County of Passaic.

These defendants admit that this religious society accumulated funds and purchased lands in the City of Passaic and erected thereon a church, or place of worship, and a parsonage for its pastor, but these defendants deny that the value of the said lands, church and parsonage is twenty-two thousand dollars.

These defendants admit that after the erection of the said church edifice, in the year nineteen hundred and seven, the members of the said congregation occu-

pied the said church edifice as a place of worship, in conformity with the laws and regulations of the Christian Reformed Church of America, until the time hereinafter mentioned. These defendants admit that the Christian Reformed Church of America is a religious society or denomination of Christians established in the United States of America, having duly organized church government, having branches or churches each governed by a consistory composed of the minister, elders and deacons, who hold stated meetings at which the minister presides; that in each district there is a classis, which comprises the minister and one elder from each church or congregation in that certain district, which holds three meetings each year. These defendants deny that there is any particular synod, but admit that there is a General Synod, which meets once in two years.

These defendants deny that every church or congregation and the consistory thereof, with the minister in each particular district, are subject to the rules and regulations governing the said denomination and to the rules and regulations of classis, except by appeal and in conjunction with and at the request of the consistory of the particular church. These defendants deny that the elders and deacons of each congregation are chosen by the judgment of the consistory, but these defendants admit that the consistory do nominate a double number of candidates for the office of elders and deacons, from whom the members of the congregation chose and elect the ones to constitute the next succeeding consistory.

These defendants deny that after the election by the congregation of the deacons and elders their installation is delayed for a period of two weeks, for the purpose of giving the members of the congregation an opportunity to offer objections to their installation, and further deny that the elders and deacons so elected have no power or authority to act or to occupy their offices after the said election.

Answer.

These defendants deny that the classis of any particular district has any power to suspend, depose or remove from office, any minister, when such action is contrary to the wishes of the consistory and the congregation of the church of which the said minister is in charge.

These defendants neither admit nor deny that the North Side Christian Reformed Church of Passaic is subject to the rules and regulations known as "The Articles of Dort," but admit that all Reformed Churches accept the articles of the Synod of Dort as an authority on church government.

These defendants admit that the elders and deacons of the several congregations of said denomination may be removed and deposed from their said offices by the determination of the consistory of their own church, but deny the authority of the next adjacent church, unless the said next adjacent church be requested to act by the consistory of the particular church.

These defendants admit that the newly elected elders and deacons do, as a part of their installation, execute and subscribe a formula, of which the following is a part: "Cheerfully to submit to the judgment of the consistory, classis and synod, under the penalty, in case of refusal, to be *ipso facto* suspended from our office," but they deny that such act is in accordance with any law or rule of the Christian Reformed Church.

These defendants neither admit nor deny that prior to the third day of August, nineteen hundred and eleven, your orators were members in good and regular standing in the North Side Christian Reformed Church, but leave the complainants to such proof thereof as they may be able.

These defendants admit that prior to the third day of August, nineteen hundred and eleven, the Rev. Arie J. Van den Heuvel was the minister in charge of the congregation of the North Side Christian Reformed

Church of Passaic, but deny that the said Rev. Arie J. Van den Heuvel was subject to removal or suspension by the Classis of Hudson.

These defendants deny that Classis of Hudson, on the third day of August, nineteen hundred and eleven, did, after due proceedings had for that purpose and in accordance with the laws and regulations governing the said denomination, find the Rev. Arie J. Van den Heuvel guilty of improper and imprudent conduct. These defendants admit, however, that charges were preferred against the Rev. Arie J. Van den Heuvel to the consistory of the North Side Church for having made a false affidavit, which the consistory, by vote of six to three, dismissed, but John Schilstra, Nick Hornstra and Hubert Prins, three of the complainants in this cause, voted in the negative and protested to the Classis of Hudson against the decision of the consistory. The matter was considered by Classis of Hudson at a regular meeting held on August third, nineteen hundred and eleven, and the Rev. Arie J. Van den Heuvel was found to be not guilty of the charges preferred against him, but was declared by the classis to have acted indiscreetly.

These defendants admit that at a regular meeting of the Classis of Hudson held on the twenty-third day of November, nineteen hundred and eleven, the classis decided to sever connections between the Rev. Van den Heuvel and the congregation of the North Side Church. The Rev. Van den Heuvel had not been notified to be present, and was not present at said meeting. At the time of said meeting no charges had been preferred against him before said classis, and he was in good standing. This action of classis was contrary to the wishes of the consistory and the congregation of the North Side Church; said classis was not vested with authority to take such action, which was contrary to the laws and regulations of the Christian Reformed Church of America.

Answer.

These defendants admit that at a meeting of the Classis of Hudson held on December 13, 1911, it was decided to postpone the carrying out of its determination to sever the connections between the Rev. Arie J. Van den Heuvel and his congregation. This action was taken only after the consistory of the North Side Church had approved and presented a petition for such action signed by one hundred and forty-three members of the North Side Church in good standing. The said consistory, at the same time, declared themselves opposed to the action of the Classis of Hudson in severing the connection of the church from their minister.

These defendants admit the allegations of paragraph number "15" of the Bill of Complaint.

These defendants admit that after the election of the newly elected elders and deacons, objection was made to their installation, but these defendants deny that the consistory did decide to delay the installation of the new deacons and elders. It was announced to the members of the congregation that the installation would take place on January seventh, nineteen hundred and twelve.

These defendants deny that in violation of the laws governing the congregation of North Side, in violation of the rights of the members of the congregation and in violation of the rights of the complainants, that certain members, without authority, did install certain newly elected elders and deacons, in the absence of complainants and a majority of the congregation of the North Side Church, and in the presence of a small part only of said members; and these defendants say that the newly elected elders, Frank DeRuiter, John Z. Sisco, Gerlof DeRoss, and the newly elected deacons, Siebe Roosma and Martinus Haakmeester, were installed by the Rev. Arie J. Van den Heuvel, who was at that time a duly licensed minister of the Christian Reformed Church of America, in good standing, in accordance with the rules and regulations

governing the North Side Church, and all Reformed Churches, and deny that the action of installation was illegal and void.

These defendants deny that the consistory of the North Side Christian Reformed Church, together with the consistory of the Hope Avenue Christian Reformed Church, being the next adjacent church, constituting the lawful church judicatory, did, pursuant to the authority vested in it, by its determination, depose from office as elders, Martinus Bast and John Groenhof, and as deacons, Peter H. Vander Plaat and Christophel Bergsma.

These defendants deny that there was a meeting of the consistory of the North Side Church held on January 9th, 1912, therefore no action could have been taken according to the rules of the Christian Reformed Church to put upon the first step of church discipline and censure, Nickolas Reinstra, John Z. Sisco, Frank DeRuiter, Gerlof DeRoos, Siebe Roosma and Martinus Haakmeester, thereby disqualifying them from holding office.

These defendants neither admit nor deny that at a meeting of the Classis of Hudson, held on the eleventh day of January, 1912, it was declared that the installation of the newly elected elders and deacons of the consistory of the North Side Church was illegal and leave it to the complainants to such proof as they may be able.

These defendants deny that they pretended to act and say that at all times since January 7th, 1912, they have acted as the lawful consistory of the North Side Church, and at a meeting of the congregation of said church, held on due notice on January 7th, 1912, attended by a majority of the members of the congregation of said church, in good standing, it was resolved to sever connections from Classis of Hudson, and to install the newly and lawfully elected elders and deacons, by their own minister, the defendant Arie J. Van den Heuvel, who thereupon duly installed the

newly elected elders and deacons, in the presence of the congregation. These defendants say that at said meeting it was further resolved to give all those members not present an opportunity to vote in favor of or against the action of secession, at a meeting to be held on Tuesday evening, January 9th, 1912, at the church edifice, at eight o'clock, of which meeting all the male members of the congregation had written notice served upon them personally; that at this meeting, held on January 9th, attended by a majority of the congregation, the action taken at the meeting of January 7th was unanimously approved.

These defendants deny that they did attempt to divert the church building, real property, personal property and effects, together with the records and documents belonging to the said congregation of North Side, from the lawful possession of said church or to convert the same to unlawful and improper purposes, in violation of the laws of said church; and deny that they attempted to exclude the complainants from the privilege of worshipping in the said church edifice. These defendants do, however, admit that at a regular meeting, duly called, it was decided by unanimous vote to sever connections from Classis of Hudson and the Christian Reformed Church of America, and to adhere to their original faith of the reformed doctrine.

These defendants are informed that the Classis of Hudson held a meeting, which was called on a few hours' notice by wire on the 11th day of January, 1912, at which meeting they pretended to remove the Rev. Arie J. Van den Heuvel from his ecclesiastical functions as a minister of the Christian Reformed Church of America, but deny that this action was taken in accordance with the laws and regulations governing the Christian Reformed Church of America.

These defendants deny that this action taken at the meeting of Classis of Hudson held on January 11th,

1912, was legal and in accordance with the laws and regulations laid down by the Synod of Dort.

These defendants deny that in violation of the laws of Classis and the rules governing the said church, they have called and employed the Rev. Arie J. Van den Heuvel to be their minister, but say that he has been the minister of the said congregation for the past five years, and is still their minister, and is acknowledged as such by the consistory and the congregation of said church.

These defendants deny that the complainants have frequently and in a friendly manner applied to these defendants and urged them to endeavor to settle their differences and to submit the same to the governing bodies of the said church, and further deny that the complainants have requested them to submit the same to the governing bodies of said church or to appeal from the determination of the consistory and classis to proper church tribunals, but these defendants say that the complainants have placed every obstacle in the way of the defendants that is possible, and have disturbed meetings and church services, at which both the complainants and the defendants were attending in the worship of God.

These defendants deny that they have at any time attempted to exclude the complainants from the church services held in the North Side Church building, and say that the church services held by the defendants were open to the complainants or to anyone else to attend, but the complainants have refused to attend, and have withdrawn from the congregation and have held services elsewhere and refused to worship with the defendants.

These defendants deny that they are diverting or attempting to divert the property of the North Side Christian Reformed Church from the purpose for which it was intended, and devoting it to other uses and purposes, but admit that the congregation, at a meeting regularly called, have withdrawn from the

Classis of Hudson, and have been accepted into the Reformed Church of America, at which meeting the complainants and their associates were invited, but refused to attend.

These defendants admit that they and their associates and confederates did present to Classis of Paramus of the Reformed Church of America a petition praying that the said congregation be admitted thereto, and that it was accepted as a congregation, with minister, elders and deacons, into the said last named denomination.

These defendants admit that by this action they did cease to remain in connection with the Christian Reformed Church of America, but deny that they cease to be the minister, elders and deacons of the organization known as The Minister, Elders and Deacons of the North Side Christian Reformed Church of Passaid, New Jersey, and as such constitute the lawful body of trustees of and in charge of the said church property. These defendants admit that they are the elders and deacons of said church and by reason thereof they are the lawful trustees in charge of the said church property, but deny that they hold said property for the use of the complainants, but for the use of the congregation known as the minister, elders and deacons of the North Side Christian Church of Passaic, New Jersey, which includes the complainants.

These defendants deny that the defendant, Nickolas Reinstra, wrongfully holds possession of the church property against the complainants, and further deny that the said Nickolas Reinstra refuses to permit the complainants and their associates to have access to the church property or to conduct church services in said building.

These defendants humbly pray to be hence dismissed with their reasonable cost and charges in this behalf most wrongfully sustained.

GEORGE H. DALRYMPLE,
Solicitor of Defendants.

Order Granting Leave to File Supplemental Answer.

(Filed June 4, 1913.)

IN CHANCERY OF NEW JERSEY.

Between JOHN SCHILSTRA and others, *Complainants,* *and* ARIE J. VAN DEN HEUVEL and others, *Defendants.*	*On Bill, &c.*

It appearing to the court that facts material to the issues raised by the pleadings have arisen since the filing of the answer of the defendants in this cause and that such facts should be presented by the pleadings before proceeding with the hearing, it is, on this 3rd day of June, nineteen hundred and thirteen, on motion of George H. Dalrymple, Esquire, Solicitor for Defendants,

ORDERED that the defendants have leave to file a supplemental answer within ten days from the date hereof, setting up such matters as have arisen since the filing of the original answer in this cause and as they are advised by counsel are material to the issues herein;

AND IT IS FURTHER ORDERED that a copy of such supplemental answer, which need not be certified, be served by the defendants, or their solicitor, upon the complainants, or their solicitors, within the said ten days, and that the complainants have leave to file a

replication thereto within two days from the date of the service upon them or their solicitors of such supplemental answer.

E. R. WALKER,

C.

Respectfully advised,

J. E. HOWELL,

V. C.

Supplemental Answer.

(Filed June 5, 1913, Served June 6, 1913.)

IN CHANCERY OF NEW JERSEY.

Between

JOHN SCHILSTRA and others,
Complainants,

and

ARIE J. VAN DEN HEUVEL and others,
Defendants.

On Bill, &c.

The joint and several answer of the defendants, Arie J. Van den Heuvel, Nickolas Reinstra, John Z. Sisco, Martinus J. Bast, John Groenhof, Peter H. Vander Plaat, Frank DeRuiter, Martinus Haakmeester, Siebe Roosma, Gerlof DeRoos and Christophel Bergsma, to the bill of complaint of the complainants, filed pursuant to leave granted by order of this court. These defendants, in addition to the matters and things set forth in the answer heretofore filed by them in this cause and by way of supplement thereto, say:

Upon the twenty-ninth day of April, nineteen hundred and twelve, a rule to show cause was allowed by Honorable James F. Minturn, Justice of the Supreme Court of the State of New Jersey, upon the relation of the complainants, why a writ of *quo warranto* should not issue directed to certain of the defendants in this cause, Martinus J. Bast, John Groenhof, John Z. Sisco, Frank DeRuiter, Martinus Haakmeester and Peter H. Vander Plaat, to show by what warrant or authority they and each of them claimed

to have, use and enjoy the offices, liberties, privileges and franchises of trustees and members of the consistory and elders and deacons of the North Side Christian Reformed Church of Passaic; and why leave should not be granted to the complainants in this cause to file an information in the matter of said *quo warranto*. Pursuant to leave granted by the said rule to show cause, testimony was taken by both parties and the matter came on for argument before the Supreme Court at the November term, 1912. The matter was then heard by the Supreme Court upon a consideration of all the testimony taken by the parties which fully presented the situation upon which the respective claims of title to the offices in question were based, and upon full argument by counsel for both sides. Thereafter at the February term, 1913, of the said Supreme Court, an opinion was filed, to which these defendants pray leave to refer for greater certainty, in which the said Supreme Court decided that, on January seventh, nineteen hundred and twelve, the title of the said defendants to the offices of elder and deacon claimed by them, respectively, was unimpeachable; that the question of their subsequent title to such offices was dependent upon the right of the congregation of the North Side Christian Reformed Church to separate from the denomination of the Christian Reformed Church and to continue as an independent legal unit under the general law governing the affairs of Reformed churches; that such right existed and that it had been exercised by a vote of separation on January seventh, nineteen hundred and twelve, and the ratification thereof at the meeting of January ninth, nineteen hundred and twelve; that the case as presented to the Supreme Court was entirely akin to the case of *Pulis* vs. *Iserman*, 71 New Jersey Law, 408; and finally that the court would decline to allow the writ of *quo warranto* to issue. Thereupon, on the seventh day of March, nineteen hundred and thirteen, judgment was entered in the

Supreme Court, pursuant to the directions contained in the said opinion, whereby the rule to show cause was discharged, with costs to the defendants.

These defendants say that the only material issue raised by the pleadings in this cause related to the title of all the defendants, excepting the defendant, Van den Heuvel, to the offices of elder and deacon, respectively, of the North Side Christian Reformed Church, and that the question as to their said respective titles is a question of law to be determined by a court of law upon a writ of *quo warranto,* or upon proceedings for the issuance of such a writ, and that the said question is not, and never was, cognizable by this court, and that the said question has, in fact, been adjudicated upon finally between the parties hereto by the said New Jersey Supreme Court, which is a court of law, and that the said questions cannot be raised in this court.

WHEREFORE, on account of these matters and on account of the matters set up by the original answer filed in this cause, these defendants pray that they may be hence dismissed with their reasonable costs and charges in this behalf most unjustly sustained.

GEORGE H. DALRYMPLE,
Solicitor of Defendants.

Testimony Taken at the Hearings.

(May 12, 1913.)

Between

JOHN SCHILSTRA, *et als,*
Complainants,

and

ARIE J. VAN DEN HEUVEL, *et als,*
Defendants.

Transcript of shorthand notes of testimony taken in the above entitled cause on May 12, 1913, at Chancery Chambers, Jersey City, New Jersey, before Hon. James E. Howell, Vice Chancellor.

Appearances:

Mr. Andrew Foulds, Jr., and Mr. Lewis A. Allen for the complainants.

Mr. Charles B. Bradley and Mr. George H. Dalrymple for the defendants.

Mr. Bradley. I move now for leave to file supplemental answer, setting up the bringing of the *quo warranto* proceedings and decision of the Supreme Court.

The Court. Do you object?

Mr. Foulds. No.

The Court. You can consider the amendment as made, and proceed with the final hearing. Will that make it necessary, Mr. Foulds, for you to amend your bill?

Mr. Foulds. I don't think so.

Mr. Bradley. I will renew at this time the motion your honor did not finally determine last week, at Newark, for a dismissal of the order

which is now outstanding, upon the ground that the same was made only until the complainant should have an opportunity to bring *quo warranto* proceedings before the first of May last year, which they did, and on the ground that those *quo warranto* proceedings were made conditional on the order; that all now outstanding have been dismissed, and the complainants have had an opportunity to present their case, raising the question of the legal title to these offices to the Supreme Court, and there is therefore no equity to support the order that is now outstanding.

NICHOLAS HORNSTRA, sworn.

Direct examination by Mr. Foulds.

Q You are one of the complainants in this case?

A Yes.

Q And you are one of the incorporators of the North Side Christian Reformed Church of Passaic?

A I am.

Mr. Foulds. I offer in evidence certificate of incorporation.

(Marked Exhibit C. 1.)

Q After the incorporation there was certain property purchased in Passaic?

A Yes.

Q By that corporation?

Mr. Foulds. I offer deed in evidence.

Q This is deed for that property?

A Yes, on the corner of Myrtle avenue and Burgess street.

(Marked Exhibit C. 2.)

Q Did the North Side Church erect a building on that property?

A Yes.

Q Tell the court what building was erected.

A A church edifice and a parsonage.

Q Do you live in that neighborhood?

A Yes.

Q How near the property?

A My back yard runs out in the back of the church yard.

Q The rear of the two yards join?

A The rear of the lots join, but I have to go around the corner.

Q You are acquainted with the value of property in that neighborhood?

A Yes.

Q What is the approximate value of the church and parsonage?

Mr. Bradley. I object.

The Court. I suppose it will be admitted by both sides that the property has a substantial value, a real substantial value.

Mr. Bradley. Substantial value; yes. I don't think that it is at all material what the property is worth, and, in the second place, I don't think he is qualified as a real estate expert.

The Court. I think after having admitted that the property is of substantial value you need not go any further with that. It is a piece of land, and the deed shows how big it is, I suppose, and there is a church on it, and parsonage. I think I would infer it was a very substantial piece of land and has very substantial value.

Mr. Foulds. That is all I want.

Q Will you describe the organization of that North Side congregation?

A The beginning?

Q Yes.

A I think it was 1905; we belonged at that time all to the Hope Avenue Church.

Q Was that a church of the same denomination?

A The same denomination; and that church building became too small for all of us, and being as it was

that we had to walk more than a mile to reach that church, the members from up our way came to the consistory of the Hope Avenue Church and consulted with them whether it would not be advisable, instead of enlarging the property there, that we should erect a church of our own and start a new congregation in our neighborhood, which would be a benefit to us and which would give relief to the Hope Avenue Church. Of course we had several meetings in regard to that with the Hope Avenue Consistory, and finally they gave us permission to do so. After obtaining permission from the consistory from Hope avenue where we all were members, then of course we consulted among ourselves how to proceed, and how much money we could get together, so that we could sustain ourselves; and we came to the conclusion that we could do it, so we proceeded, and went to the classis, asked the classis if they would consent to it, to organize us into a new congregation, and take us in as a second congregation in the city of Passaic, which they consented to, and they sent their committee from the classis and organized us as a congregation.

Q And the North Side Church was then instituted in all respects as a church of the Christian Reformed denomination?

A Christian Reformed denomination.

Q Did Hope Avenue Church, the church from which you came, make any contribution at that time?

A Oh, yes.

Q What did they contribute to the new church?

A They contributed a thousand dollars to our congregation.

Q And did you also get a contribution from the Church Help Fund of the Christian Reformed denomination.

A Yes. We got a loan from them of five hundred dollars, without interest, which is very easy for our congregation; we only have to pay twenty-five dollars a year back on that.

Q And these contributions went into the property and temporalities of the Christian Reformed Church, North Side?

A Yes.

Q The elders at that time were yourself, Mr. Mathys Klapmuts and Jan Snop, and the deacons were Jetze Pruiksma, Pilles Bergsme and John Sylstra. Is that John Sylstra the John Sylstra who appears as a defendant here?

A Yes.

Q From that organization in 1905 did you continue as a church of the Christian Reformed denomination?

A Yes.

Q And worshipped in all respects in accordance with its discipline and doctrine?

A Yes.

Q Did you send delegates to Classis of Hudson?

A We did right along.

Q You were under Classis of Hudson, of that denomination?

A Yes.

Q You worshipped together in peace and harmony down to about what time?

A Up to January 1912,—no, 1911.

Q What took place at that time? Tell us about the meeting of January 7.

A There was new elders and deacons was proposed and chosen by the congregation.

Q (*By the Court.*) When?

A That was in November and December, the election was in November.

Q (*By the Court.*) What year?

A It must have been in 1911.

Q December 1911 was the election?

A Yes; the first election was in November, and on account of two of those that got elected refused to serve the consistory had to put up new candidates, and

it was in the latter part of December that two more was chosen out of the proposed number.

Mr. Bradley. I object to this testimony as not being the best evidence; the minutes of the church, the congregation, will show what occurred. In the meantime I don't want this witness testifying from memory.

The Court. That is the best way, of course, the best evidence.

Mr. Foulds. The minutes are all in the Holland language. I think there is no dispute about the translation of them.

Q You say there had been an election held in November and December?

A In November and December.

Q When do the newly elected elders and deacons take their office?

A They generally take their office the first of the year.

Q Was any act done by anybody to make them elders and deacons?

A Oh, yes.

Mr. Bradley. I object to that and ask to have it stricken out.

The Court. You are now inquiring about the rules and laws of the church?

Mr. Foulds. Yes.

The Court. Don't you prove that by proving what the laws are?

Mr. Foulds. I am proving these things in a general way; then we will prove them—

The Court. You will prove the laws afterwards?

Mr. Foulds. Yes.

Q What is this service that you speak of?

A The proper way is after they are elected that they get announced from the pulpit two Sundays in

succession, make it known to the congregation that those are the elected ones.

Q (*By the Court.*) Was that done in this case?

A That was done in this case; really in this case it was announced only one Sunday, because there wasn't time for it; then after they got announced from the pulpit on the Sunday then the consistory members have a consistory meeting so that objections to the elected ones can be made.

The Court. He is stating law now. What was the fact about it?

Q There was announcement that the deacons and elders would be ordained on January 7th, wasn't there, in this case?

A They got announced from the pulpit that they were elected, and the consistory was to hold a meeting on the following week, on the 4th of January, and if no objection would come in they would be installed on January 7th, on Sunday.

Q (*By the Court.*) That was the notice that was given out from the pulpit?

A Yes.

Q (*By the Court.*) Who gave it out, who did it?

A I couldn't tell now who the minister was that preached that Sunday.

Q Were you a member of consistory at that time?

A Yes, I was.

Q Did you hold a meeting on January 4?

A We did; yes.

Q What was done at that meeting?

A At that meeting there came objection against the newly elected ones, eleven members came from the congregation, I think it was eleven, and objected to the installation of the newly elected ones, and brought charges against them. Then, not only that, but there was also some of the consistory members what brought personal objections against them also; and the objections was of such a nature that the consistory decided

to delay the installation so that the charges could be investigated.

Mr. Bradley. I don't want to obstruct the trial of this cause, but I object to this witness giving from memory all these things that happened in the consistory meetings. The minutes are the best evidence of that. The minutes are here, and it is a very material matter in this cause. I insist upon the minutes as being the only evidence of these matters.

Q What was done on Sunday, January 7; did you attend the church service that day?

A I did, yes.

Q What was done there?

A Those newly elected members was made acquainted with what the consistory had decided, that is, should delay the installation so that the charges could be investigated, and on January 7, the Sunday following, those members came to the consistory, before the church services, asking why it was that they should not be installed; they had notice, but they wanted to know what was the reason; the reason was given to them, and so it went on.

Q (*By the Court.*) On January 7?

A On January 7.

Q On Sunday, January 7, you attended the morning service, did you?

A I did; yes.

Q In the church edifice in Passaic?

A Yes.

Q What took place at that morning service?

A At that morning service one of the consistory members name of Bast, he announced from his seat after the services came to be concluded, he announced from his seat that there would be a meeting of the members of the congregation in the afternoon after the afternoon services.

Q Was that a lawful way of calling the—

The Court. No; he cannot answer that question.

Q Did you attend the afternoon service?

A I did; yes.

Q What took place there?

A The consistory always comes together before they enter the church edifice.

Mr. Bradley. I object to that as not responsive.

The Court. He has not finished his answer yet.

A They spoke about what had happened in the morning, that brother Bast had called a congregational meeting of the members together in the afternoon without any orders from the consistory, and the result was that the consistory instructed their minister to preach of that that afternoon, to announce from the pulpit in the afternoon service there would be no meeting of the members that day.

Q Did the minister make that announcement in the afternoon?

A He did.

Q Did you learn later that a meeting had been attempted to be held that afternoon?

A Yes, afterwards found out they did hold meeting.

Q You did not attend that meeting though?

A I did not.

Q And you don't know of your own knowledge what took place there?

A No, I don't.

Q What is the next adjacent church to the North Side Church?

A The Hope Avenue.

Q Did the consistory of North Side ask the consistory of the next adjacent church to meet with them?

A Yes, that is the rule.

Q (*By the Court.*) Did they do it?

A They did.

Q And did it as the double consistory of North Side and Hope Avenue have a meeting?

A They had a meeting Monday night, on the 8th.

Q What was done at that meeting?

A At that meeting charges were to be considered that were brought against elders.

Q (*By the Court.*) The charges against these newly elected elders?

A Yes.

Q And also charges against the others that attended the meeting?

A So much had happened in between time, of course the consistory had to take action in that regard, and the double consistory also; while they held that meeting against the church rules, those people of course who had attended that meeting made themselves guilty of a church offence.

Mr. Bradley. I ask that that be stricken out.

The Court. Yes.

Q Since that time have you and the complainants and their associates held regular meetings continually down to the present time?

A Yes.

Q What is the approximate membership of your side?

A What we have now?

Q Yes.

A In families or in members?

Q Total membership.

A Total membership, I think we must have about one hundred and twenty-five, or a few more, that is the members.

Q They remained faithful to the Classis of Hudson of your denomination?

A Yes.

Q The North Side Church as it existed prior to this affair of January 7?

A Yes.

Q (*By the Court.*) How do they do that? How do they remain faithful to the Classis of Hudson? What do they do? What do you mean by that?

A What do I mean by that?

Q Yes.

A We never had anything else; we was from the beginning on the Classis of Hudson, and are yet, by the rules of the church are on, and now.

Q How do you know that these people you speak of remained with your North Side Church?

The Court. What did they do to show anybody that they do remain with the North Side Church and with the Hudson Classis?

A There is no difference at all.

Q (*By the Court.*) What do they do?

A They contribute to the church affairs, and they hold meetings right along, attend church services of congregation, of Sunday School, and everything, just like they always had.

Q (*By the Court.*) That is with your companions who occupy the church on alternate days?

A No, your honor, we occupy the church on Sunday, we have in the morning up until one o'clock.

Q (*By the Court.*) At alternate times then, put it that way?

A Yes; we kept right along, just like we always did; we never been anything different.

Q I show you a petition filed in this court on February 15, 1912, signed by Cornelius Maat and others; will you please refer to that and say who signed that paper?

The Court. The paper shows for itself, don't it?

Q They are members of this who are worshipping with you?

A They are.

Q (*By the Court.*) Those are the people who belong to your side of the controversy?

A Yes.

Paper offered in evidence.

Mr. Bradley. I object to it as a matter of evidence, as being irrelevant, in the first place, immaterial, and as not being proved.

The Court. I think it is one of the facts in the case.

Marked Exhibit C. 3.

Cross examination by Mr. Bradley.

Q At the time that the North Side Church was formed what were the relations of the original members with the congregation of the Hope Avenue Church, were they friendly or otherwise?

A Oh, yes; yes, they were friendly.

Q You had no disturbance in the Hope Avenue Church?

A No, not the least bit.

Q Now you say that a gift was made by the Hope Avenue Church to the new church?

A Yes.

Q That was a free gift, wasn't it?

A It was a free gift.

Q There was no conditions attached to it of any sort?

A No.

Q What was it, in the form of cash?

A It was in cash.

Q How much?

A One thousand dollars.

Q And that was given directly to the treasurer of the new church?

A Yes.

Q To use as they saw fit?

A Yes. We had considerable other gifts from the individual members of Hope avenue also; that was

officially from the head of the church, from the consistory.

Q Now after this meeting of January 7, 1912, after the church meeting that day, when did you and your adherents commence to have a service in the church or elsewhere?

The Court. When did you have your first meeting after January 7th?

A We was locked out of our—

Q (*By the Court.*) No; when did you have your first meeting?

A The congregational meeting or the consistory meeting?

Q No; I mean regular service.

A Regular service?

Q Yes.

A We had that on Prospect street in Passaic.

Q When?

A On the following Sunday.

Q And what minister did you have?

A I think it was Rev. Kroner, but I am not sure of that.

Q Were you present yourself?

A Yes.

Q Now you say that you and your faction have contributed to the Christian Reformed Church or to Classis of Hudson; don't you mean that you have simply contributed your share of the upkeep of the old North Side Church as directed by the order made by this court on the 28th of March?

A We had no forcible contribution at all; whatever we take in is all free gifts.

Q Have you made any contribution to the Classis of Hudson since the 7th of January?

A To the Classis of Hudson?

Q Yes.

A We never contributed to the classis at all.

Q Have you made any contribution in any way to the Christian Reformed Church except to keep up the church building in Passaic?

A To our church, yes.

Q The church building that is in controversy here?

A To everything.

Q In accordance with the terms of the order of March 28th?

A Not only that, but the people of our congregation got to stand its proportion of the general expense of the synod and expense of the classis and expense of the missionary, &c.

Q I am asking you whether your faction have made any contributions to the general purposes of the Christian Reformed Church since you have been occupying the building there under the order of March 28th?

A Yes.

Q Well, what; tell me what they are?

A Absolutely everything that was needed, the same as before.

Q Tell me what contributions your faction has made to the general purposes of the Christian Reformed Church since the 28th of March?

A The amount of money?

Q No, not the amount, but what, substantially the amount, I don't care for the exact amount.

A We have our regular expenses.

Q (*By the Court.*) About how much has been the expense of paying your share of maintaining the church property that you have been worshipping in?

A Our share was half of all the expenses.

Q (*By the Court.*) About how much was it?

A I can say how much mortgage there is on.

Q (*By the Court.*) Come as near to it as you can.

A It is in the neighborhood of about pretty near $11,000, and interest has to be paid on that, and

that so far, while this is tangled up, gets paid by both parties.

Q (*By the Court.*) Well, you can't tell then how much is contributed to the maintenance of the church?

A I couldn't tell exactly.

Q (*By the Court.*) How much have you and your adherents paid to the classis?

A The classis? We only pay the classis expenses when they meet.

Q (*By the Court.*) How much have you paid toward those expenses?

A Those expenses are not very heavy, there is traveling expenses is the principal part; the classis comes together from different parts of the country, some got to come from New York State.

Q (*By the Court.*) Mr. Bradley wants to know how much you and your adherents have paid to the expenses of maintaining the classis.

A To maintaining the classis I think sometimes it runs for each congregation in the neighborhood of seven dollars, and sometimes it runs a little bit less; the classis meet for each congregation.

Q (*By the Court.*) How many times a year?

A Three times a year.

Q (*By the Court.*) Do the individual churches make any contribution to the synod?

A Only the general expense.

Q (*By the Court.*) How much have you and your adherents paid toward the maintenance of the synod?

A The synod only meets once in two years, and expense of synod is not very much, but we have our seminary at Grand Rapids.

Q (*By the Court.*) How much have you and your adherents contributed to that?

A I could not name the sum; then of course we have also missionary work, that goes out from the head of the church, and contributed to that.

Q (*By the Court.*) How much have you contributed to the missionary work?

A I couldn't say; I have never been treasurer of our church; I don't know.

Q Have you any regular minister that is conducting services for you and your adherents?

A We have not at present.

Q Have you had at any time since January, 1912?

A No, not regular; we have ministers from the classis to supply the pulpit.

Re-direct examination by Mr. Foulds.

Q Where have you got the ministers who have officiated at your services, where have you obtained the ministers who have officiated at your services?

A Supplied by the classis, different ones.

Q From the Classis of Hudson?

A Classis of Hudson.

Q You said on cross examination that the defendants had locked the church against you?

A Yes.

Q Will you explain that to the court, when that was done?

A That was done after they held the meeting on January 7; they came to the church consistory room on January 8, in the evening, and we was refused admittance; there was a lot of men present, and of course we had to go back and meet somewhere else; we had consistory meeting that evening, and we could not get in, and the next Sunday was the same way, they had changed the locks on the door so there was absolutely no way for us to make use of the building; we either had to get in with force or else go to law.

Q Have any ministers officiated at your services who were not ministers of the Christian Reformed denomination?

A Oh, no.

Re-cross examination by Mr. Bradley.

Q At the time of the meeting, January 7, you and your adherents were having another meeting, weren't you?

A No.

Q Didn't you have another meeting that day?

A No; we had our regular church services in the afternoon and in the morning, that is all; that concluded about half-past three in the afternoon.

Q There were only one set of services that day, weren't there?

A Two services that day.

Q I mean they were both conducted by the same people, weren't they?

A Yes, the same minister.

WILLIAM S. PONTIER, sworn.

Direct examination by Mr. Foulds.

Q You are the secretary or clerk of the consistory of the North Side Christian Reformed Church?

A I am.

Q How long have you been a member of that consistory?

A I was installed as deacon on, I believe, the first Sunday in January, 1909.

Q Do you keep records of the consistory meetings?

A I do.

Q Have you the minute book?

A I have.

Q That is in the Holland language?

A That is in the Holland language.

Mr. Foulds. The minutes of January 4 and subsequent are disputed.

The Court. That is to say, since January 4, there have been two sets of minutes.

Mr. Foulds. Yes, sir.

The Court. Is the accuracy of the minutes contested?

Mr. Foulds. The accuracy of the minutes are disputed.

The Court. The dispute appears to be about the accuracy of the minutes themselves, and in that event the whole thing will have to be proved in the regular way.

Mr. Bradley. I am willing to let in anything that is in this printed book so far as concerns the accuracy of translation or anything else.

Q Prior to January 4, 1912, did you have possession of that book, Mr. Pontier?

A Prior to January 4, no, sir.

Q Prior to January 4, 1912, did you have possession of the other book?

A As consistory we had possession of it, not I personally.

Q Who was secretary of the consistory on January 4, 1912?

A Mr. Bast.

Q What took place at the meeting of January 4, 1912?

A The meeting of January 4 was opened by brother J. Groenhoff, then vice-president of the consistory, and after opening was prayer; the Rev. Westenberg came to the meeting, and the vice-president stood up and offered him the chair, and the Rev. Westenberg presided; then after a couple of people confessing the faith, which has no bearing on this case, eleven members came to the consistory complaining about newly elected elders and deacons, and the consistory heard their complaint, and informed them that the complaints would be taken into consideration, and they departed. There was after that a couple of consistory members who complained in regard to these members that were to be installed, or who had been elected, and a discussion arose as to the proper procedure, and a motion was put to investigate the charges.

Q (*By Mr. Bradley.*) Are you reading from the minutes?

A Yes, partly.

Q (*By Mr. Bradley.*) Is that in the Holland language? Will you kindly translate what you have before you?

The Court. He is using minutes for the purpose of refreshing his memory. This is minute of January 4?

A Yes.

The Court. And this is the meeting the minutes of which are disputed. I will let him tell what took place according to his recollection.

A There was a motion put to investigate the charges and delay the installation, and that motion was carried by a vote of 5 to 3. One member, Mr. Bergsma, not voting. The president addressed Mr. Bergsma, asking him why he did not vote, and Mr. Bergsma said, "Why, I would rather join the heathen that prays to the sun than remain longer in the Christian Reformed Church of America." Then another motion was put as to how we—there was a motion put to call in the Hope avenue consistory and a third consistory from Paterson, to deliberate upon the matter of the complaints, and a discussion arose in regard to the proper way, whether it would be proper to have three or two consistories, and the vote was tied, four to four, and Rev. Westenberg said, "Well, I have to decide it; I would rather have as much counsel as possible; I will say the three consistories."

Q Was it the motion to postpone the installation?

A That was passed five to three.

Q This was a motion to take in a third consistory?

A Third consistory, that was tied.

Q Then what was done?

A Then financial report; and that was about the end of the meeting, of that meeting.

Q Had a day been previously fixed for the installation?

A It had been announced the previous Sunday that, in the usual way we always announce it, that so and so has been elected, and if no complaints are brought—sometimes it isn't even said if no complaints are brought, but usually it is announced if no complaint is made to the consistory these people will be installed on such and such a day; and it was announced they would be installed on January 7.

Q Was there a meeting on January 7?

A The consistory meets before the services every Sunday morning.

Q The consistory meets every Sunday before the services?

A Yes, sir.

Q Were any minutes kept of that meeting?

A I made minutes of that meeting; yes.

Q What was done at that meeting?

A Brother F. DeRuiter, John Zyestra, Gerlof DeRoos, M. Haakmeester and S. Roosma, the five men who had been elected to be candidates for the consistory, came in to the consistory meeting and requested, said that Mr. Bast had unofficially advised them that the installation had been postponed by the consistory. I said to Mr. DeRoos, who had taken the floor, "Mr. Bast advised you, didn't he?" "Yes, in an unofficial way." I said, "Advised you he was secretary." "Yes, he advised me, but not officially."

The Court. I wonder whether you want all this conversation?

Mr. Foulds. I don't think the conversation is necessary.

Q (*By the Court.*) What was voted upon and decided upon by votes?

A Then the consistory informed the brothers that the installation had been postponed, and there would

be no installation take place at that day. That was done in the morning meeting.

Q Did you attend the church service on that day?

A I did.

Q What took place there?

A The morning service, just as the minister was ready to pronounce the benediction, after he had announced to the congregation the election of deacons had been postponed, Mr. Bast got up and said in the name of himself, Mr. Groenhoff and the newly elected candidates, there will be a meeting of the congregation, of the male members, to speak about the installation.

Q Did he say when that would be?

A After the afternoon service.

Q Your church held two services on Sunday, one in the morning and one in the afternoon?

A Yes.

Q Did you attend the afternoon service?

A I did.

Q What took place there with reference to this?

A Prior to the afternoon service the consistory advised Rev. Kaiser, who was at that time preaching for us, should announce to the congregation that if any such meeting was held it would be illegal, and Rev. Kaiser did so announce to the congregation at the close of the afternoon service.

Q Anything said after the minister made that announcement?

A After the benediction had been pronounced, and just before the organ started to play, as they were going out, I announced that Sunday school would be held as usual; that was after service was closed.

Q Then did you wait to see what was done afterward, whether there was any meeting held by Bast?

A No; I started to held Sunday school, but several of them ordered me to get aside, and they chased the children out, wouldn't let them stay there.

Q Wouldn't permit you to hold the Sunday school?

A No.

Q Why didn't you stay to this Bast service?

A Why, it was illegal; the consistory had so announced.

Mr. Bradley. I object to that and ask to have it stricken out.

A It was my opinion that it was illegal.

The Court. You can say the consistory announced it was illegal; that was one of the things that was done; the rest of it ought to be stricken ou.

Q After January 7, did your consistory have another service, another meeting?

A Not on January the 7th; on January 8th, yes, sir.

Q They held a meeting on January 8th?

A Yes.

Q You have the minutes there?

A I have.

Q Tell us what took place at that meeting.

A This meeting of January 8th was called—

The Court. Is there dispute about the minutes of that meeting?

Mr. Foulds. Yes; at that time both sides kept a set of minutes, from January 4, the two parties, the North Side Church and seceding faction kept different sets of minutes.

The Court. The minutes of January 4 were the minutes of the undivided body?

Mr. Foulds. Yes, but both the secretaries wrote up independent minutes of that meeting.

Mr. Bradley. We claim these are not the minutes at all.

A On January 7, before the service, it was decided to call, in view of what took place in the morning,

announcement by Mr. Bast, to call the Hope avenue consistory to meet with us the following evening.

Q (*By the Court.*) Was that voted on?

A That was voted on.

Q (*By the Court.*) Tell what was voted on; don't care to have the talk that preceded the voting; the final acion of the consistory is what we want.

A And then on Monday evening the consistory attempeted to enter the church parlors, and Mr. Westenberg and two or three others that I met came back from the door and said they had been barred.

The Court. Never mind what they said.

A And we adjourned to Mr. Hornstra's house. The consistory met on January 8, and Mr. Groenhoff and Bast being absent; I was elected secretary to take Mr. Bast's place temporarily; and we adjourned to meet with the Hope avenue consistory the same evening. Complaint was made at the double consistory against brothers Bast, Groenhoff, Bergsma and Vander Plaat for committing gross offence named in Article 80 of Church Law, namely schism, open rebellion; and the consistory then and there decided that although these brothers knew that we were to have the meeting, and raised no objection when it was decided to call the doubly consistory, that we inform them that we were ready to proceed—and they were so informed that evening by letter. Personally, I was one of the committee that took the letters to them and asked them to appear, also the Rev. Van den Heuvel. Then the consistory decided, after waiting until late in the evening and hearing the different evidence that was brought by the various consistory members in regard to the sins these people were charged with, the consistory then and there decided to remove M. J. Bast and J. Groenhoff as elders, and Peter H. Vander Platt and Chris. Bergsma, deacons, to remove them from office according to Article 79 of the Articles of Dort.

Q This was the double consistory meeting you are telling us about now?

A Yes.

Q Held on January 8?

A Yes. Then further action was taken suspending the Rev. Arie J. Van den Heuvel according to Article 79, Articles of Dort, for sins committed, which were named in the Article 80, namely, open rebellion and schism. It was then also decided to call a special meeting of the classis, in particular the vote of the Hope avenue church, in so calling the classis which had been authorized by a previous classis to call a special meeting if necessary; it was then decided to call a special classis for January 11, and the wires were sent out that same evening.

Q (*By the Court.*) Called by telegraph?

A By telegraph.

Mr. Foulds. I offer in evidence translation of the minutes of special classis held January 11, 1912, referred to by the witness.

The Court. You offer in evidence the minutes and translation?

Mr. Foulds. A translation. The other side have seen them for a year.

Mr. Bradley. I don't object to his offering these as representing the minutes, but I do object to the introduction of the minutes or translaion of them at all, as being immaterial and irrelevant in this case.

The Court. I overrule the objection.

Marked Exhibit C. 4.

Q Have you another consistory meeting there?

A We met on the 9th, the following evening.

Q You haven't told us about the 9th?

A I have not.

Q Tell us what took place on the 9th.

A I might say on the 8th, after the double consistory the North Side consistory met again and elected

permanent president and secretary, which was Mr. H. Prins for president and myself as secretary. The 9th, the following evening, on the 9th we received resignation from one of the members, and it was accepted and filed. One of the consistory members brought a notice, copy of a notice to the meeting, which had been circulated by some of the church members, and it was signed by nine of the members, calling a meeting for that very evening, January 9, which they purported to be a meeting of the North Side congregation, or whatever we may call their meeting; and taking cognizance of that fact, why the consistory then and there decided to place them nine members under the first step of church censure for attempting to call a meeting of the congregation without authority of the consistory.

Q What is the first step of church censure?

A The first step of church censure bars a member from taking communion, and it bars him for voting for officers.

Q From holding office?

A And from holding office, certainly.

Q Then what did you do with reference to Zystra, DeRuiter, DeRoos, Roosma and Haakmeester?

A They were also placed under first step of church censure the same evening, and then it was decided at that meeting that Mr. Hornstra and Prins be delegated to serve written notice upon the fourteen members censured, hat evening.

Q Then was any action taken after that notice was sent?

A I, as secretary wrote out the notices, and the president and I signed them and put them in sealed envelopes, and they delivered them, as far as I know they delivered them.

Q Did these men appear and ask for those notices?

A No, sir.

Q What else was done at the consistory?

The Court. Was there any appearance day noted in the notices?

A No; they were simply notified they were placed under censure.

Q Since that date has your consistory held meetings regularly in accordance with the rules of the church as theretofore?

A Yes.

Q And have you attended the services, have worshipped regularly?

A Regularly.

Q Have those services been conducted by ministers of the Christian Reformed denomination?

A Yes.

Q No ministers have officiated who have not been ministers of the Christian Reformed denomination?

A None whatever.

Q Has your North Side Church contributed to the classical tax?

A We pay our classical tax at each classis, and we have done since January 7.

Q That is the Classis of Hudson?

A Classis of Hudson.

Q The classis to which you belonged prior to January 4?

A Yes, the same classis. I might say, when you speak of classical tax, I infer that to mean the expenses of that one gathering; but we also pay the classical secretary a regular yearly tax for various funds; we pay one dollar per family for the theological school, that is one dollar per year per family.

Q That the theological school of the Christian Reformed denomination?

A Christian Reformed denomination, at Grand Rapids, controlled by the Synod of the Christian Reformed Church, and owned by them. We pay, it is fifty-five cents a year for the students fund, per family.

Q Students fund of that denomination?

A Of that denomination, the same school. We pay seventy-five cents per year per family for a tax of the Classis of Hudson for the work here in Ellis Island, Hoboken, seamen's fund, and work among the emigrants, missionary work; and we pay the Emeritus fund, I might say for ministers—I am not positive what that tax is, I believe it is twenty-five cents per family, or twenty-three. Then of course we have our tax, such as mission funds, where the synod calls for one or two collections per annum, which we have taken regularly. And there is the Church Help Fund for which we have loaned $500, and still owe in the neighborhood of $350 or $375; we take one collection per year for that, and have done; when I say we have done, there may be one or two collections, this fiscal year does not end until June 30.

Q These are the contributions of the Christian Reformed Church?

A Yes; we have paid everything up to and including our fiscal year ending June 30, excepting, I believe, thirty days.

Q Have the defendant's faction contributed anything to that contribution?

A Not to my knowledge.

Mr. Bradley. I object.

The Court. They claim to have seceded from your church, and they would not be bound to make any payments.

Q Do you recall having been prevented from entering the church by any of the defendants?

A I do.

Q When?

A It would be rather hard to place the exact date; it was in the early part of last year.

Q Was it after January 4th?

A It was after January 4th.

Q Will you tell the occasion?

A I went to the church about 11 o'clock on Sunday morning, I went to the rear door of the church, and Mr. Sylstra come to the door and just opened it a trifle, and seen it was me, and threw the door shut.

Q Do you remember subsequently being in the consistory room and trying to get in the church to get your books?

A On the 31st of January, that was the occasion I tried to get my books, that was one occasion; another one I will speak of was 31st of January, just before we started the case in this suit; we went to the church rooms where we understood these people were gathered, and we went there with about fifty of our male members.

Q (*By the Court.*) Fifty?

A About fifty, your honor; and we told them then and there in writing that we could not agree to their attempted action of secession from classis, and that we bid them come back to the church and let us live in harmony.

Q (*By the Court.*) That was in writing?

A In writing; yes.

Q (*By the Court.*) Have you got copy of it?

A We have it in the Holland language; I think it could be translated, your honor; and on that occasion I attempted to enter the church parlors into the church, and I was prevented by the sexton; he told me the doors were locked.

Q You gave them a writing?

A Yes.

Cross examination by Mr. Bradley.

Q You say that you were elected secretary temporarily, and then permanent, on January 8th?

A Yes.

Q And you have been reading from the minute book there, what you allege to be a minute book, the minutes of a meeting held on January 4?

A Yes.

Q And who wrote those minutes?

A I did.

Q And at the time of the meeting January 4 you were not secretary of the church, were you?

A No, sir.

Q Then why did you write the minutes of that meeting, and by what authority?

A By resolution of the consistory.

Q What consistory?

A That met on January 8; in fact, on January 7 various members of the consistory had said Mr. Bast—

Q I don't care what they said.

The Court. He is talking now about his authority to write the minutes of January 4.

A On the meeting of January 8—

Q (*By the Court.*) No, no, January 4; how did you come to write the minutes of the meeting of January 4?

A By resolution taken by the consistory on January 8; inasmuch as Mr. Bast was away the consistory decided that I should make minutes of January 4; it was a very important meeting.

Q (*By the Court.*) They were made afterwards then?

A Yes.

Q You mean to tell me then that this very important meeting of January 4, when so many questions of import to the congregation were being decided, the minutes which you now profess to hold in your hand were written by you some four or five days afterwards?

A They were written by me three days after.

Q You say you were not authorized to write them until January 8; is that three days after January 4?

A That is four days.

Q And at the time of the meeting of January 4 you didn't know you were going to be authorized to write minutes at all, did you?

A I did not; no, sir.

Q And you didn't take notes at that meeting, did you?

A I made memorandums. No, not at that meeting.

Q You made no memorandum of January 4?

A No.

Q You had no official capacity at the meeting of January 4 other than your hold-over capacity as deacon, is that right?

A I was a deacon.

Q You spoke of consistory meeting of January 7, and what members attended that meeting? Who composed what you call the consistory of January 7?

A As elders, Hornstra, Mr. Prins, Mr. Schulstra, Mr. Groehhoff, Mr. Bast; and as deacons were Bergsma, Vander Plaat and Wynbeek and myself.

Q That was the Sunday morning meeting January 7?

A Yes.

Q You have before you in that book what profess to be minutes of that meeting, have you not?

A Yes.

Q As a matter of fact, has it not been the invariable custom on Sunday mornings to have no minutes at the meetings taken? They were mere religious meetings, were they not, not business meetings?

A We have always had the custom if any important matter came up that we could decide the same before the services, if it was important, it could not lay over until the next consistory meeting, such a deciding when the next consistory meeting will be, as a general rule there is no record kept of it, excepting it is noted in the following minutes. This meeting was called by a gathering before the church services.

Q You would not ordinarily decide to sell a church property, anything as important as that, on Sunday morning before the meeting, would you?

A No, sir.

Q You took what you call the minutes of that meeting in the same way you took the minutes of January 4, by authorization given to you January 8?

A I wrote them the same evening.

Q You made up the minutes of those two meetings after you had been elected secretary on the 8th?

A I wrote them up Sunday evening.

Q Sunday evening January 7?

A Yes.

Q From what?

A From my memory, only a few hours before.

Q You had no authority at that meeting of January 7 to act as secretary, did you?

A I did not.

Q Now, at the meeting of January 8, that you have testified you attended, and referred to as a consistory meeting, who were present?

A January 8?

Q Yes; that was Monday?

A The five complainants in this case.

Q (*By the Court.*) Who else?

A That was all at the first single meeting, the North Side consistory, and Rev. Westenberg.

Q What did he have to do with the North Side Church?

A We had called Rev. Westenberg there to meet with his consistory; his consistory were present; they were in the room; they took no part in our first meeting.

Q (*By the Court.*) He was from the Hope Avenue Church?

A Yes. The classis had delegated Rev. Westenberg to fill the functions of what we would call in Holland language consulent. Whenever a congrega-

tion is vacant, that is has no minister, the classis designates the next minister to take his place at the meeting and help that congregation in everything that is necessary.

Q This meeting you have been testifying about as having taken place January 8, you were present with five complainants, and that is all, at the North Side Church?

A At the meeting of the consistory, and then we met with the Hope Avenue consistory, who were right in the room.

Q I am asking what you call the meeting of the consistory of January 8, there were present only the five complainants in this case, were there not?

The Court. He says there were only five from the North Side Church.

A Yes, five complainants; the other four members who had been notified of the meeting when present on Sunday when it was decided to meet, were absent.

Q Now the terms of all those five members had expired, had they not?

A They had not.

Q Had they not expired—were subject to a re-election by a legal election?

A The terms of office do not expire until the successor is installed. I was installed in 1909, and I was re-elected in 1910, and have only had one installation to this day.

Q What I want to know is this: That in the ordinary course the terms of four of those five had expired at that time, had they not?

A They were the four which were to be supplanted in the ordinary course if their successors had been installed at the regular time.

Q If it had not been for this controversy their successors would have been installed in their place, their terms would have expired?

A Yes.

Q (*By the Court.*) Do you remember when these five were elected?

A Yes; I sat down at home last night and made a memorandum.

Q (*By the Court.*) Can't you tell from memory?

A These five were elected—I was selected with Mr.—

The Court. He can't answer readily; go on.

Q Now, at the meeting of January 9 who composed what you call the consistory, present at that meeting, what you refer to as a consistory meeting?

A Prins, Hornstra, Schulstra, Wynbeek and myself.

Q In other words, the same five complainants in this cause?

A The five complainants.

Q Was anybody else present at that meeting?

A Nobody.

Q Did you receive notice of a meeting of the congregation of January 9?

A I received some sort of a notice.

Q You had an opportunity to attend such a meeting, did you not?

A I hadn't, no; I had a consistory meeting to attend that night.

Q You had ample time to get to the other meeting if you wanted to, didn't you, if not otherwise engaged? A If not otherwise engaged; yes.

Q You did not go?

A No, I didn't go.

Re-direct examination by Mr. Foulds.

Q Why didn't you attend the meeting of January 9th?

A Because I have always held, I have always known it to be the rule of the church that no meeting can be called by individual members.

Q (*By the Court.*) The reason then, you thought it was an illegal meeting?

A It was an illegal meeting, your honor; that is the way I figured it.

Mr. Bradley. What the witness has just been reading from as minutes, I don't quite understand whether they have been offered in evidence.

The Court. They have not been offered in evidence.

Mr. Foulds. I will offer them in evidence. I offer in evidence the book of minutes produced by Mr. Pontier.

Mr. Bradley. I object to the introduction of the book introduced by Mr. Pontier in evidence on the ground that they are not the minutes of the North Side Church.

The Court. I will admit them. Let them be marked.

JOHN SWEETMAN, sworn.

Direct examination by Mr. Foulds.

Q You were a member of the North Side Christian Reformed Church prior to January 7, 1912?

A Yes.

Q Did you attend the service on Sunday morning, January 7th?

A No, sir.

Q Did you attend the service Sunday afternoon?

A No, sir.

Q Did you attend the meeting after the religious service?

A Yes.

Q What took place at that meeting?

A Well, now, it is rather hard for me to describe all that took place, because I am not familiar enough with the Holland language, but as much as I could get out of it, they decided to reinstate the Rev. Mr. Van den Heuvel; I was in favor of reinstating him myself.

Q You were in favor?

A As far as reinstating him, because I didn't know and don't know the real cause of the trouble.

Q Was there a vote taken at the meeting?

A There was a vote taken at the meeting to draw off from the classis; that I was not in favor of.

The Court. His own feeling about it don't make any difference.

Q What was the resolution offered at that meeting?

A Well, the only resolution was to draw off from the classis.

Q To secede from Classis of Hudson?

The Court. And join any other classis?

A I won't say just whether that was brought up that night or not.

Q Was there a vote taken on that resolution to withdraw from the Classis of Hudson?

A Yes.

Q Did any oppose it?

A Yes; there was two opposed, to one undecided.

Q Did you vote?

A No, sir.

Q Didn't vote either way?

A I was undecided.

Q Did you state to the meeting that you were undecided?

A No, sir; I didn't know the reasons of the trouble.

Q How was the vote taken?

Mr. Bradley. I object to all this; if he is going to testify to outside things that happened, well and good; if he is testifying to minutes of this meeting, the minutes must go in for that.

The Court. Are there minutes of the meeting?

Mr. Bradley. Certainly, your honor.

Mr. Foulds. It was an irregular meeting.

The Court. That is the very dispute in this case, whether it was regular meeting or irregular meeting.

Q Were the names called at that meeting?
A Yes.
Q Was your name called?
A Yes.
Q What did you say?
A "Undecided."
Q Then the meeting adjourned?
A Yes.
Q Did you receive notice of a meeting to be held January 9th?
A Yes.
Q Did you attend that meeting?
A Yes.
Q And did you vote at that meeting?
A No, sir.
Q What resolution was offered at that meeting?
A I couldn't just say; as I say, I could not understand the Holland language quite plain enough.
Q Did you vote at that meeting at all?
A No, sir.

Cross examination by Mr. Bradley.

Q Do you understand the Holland language at all?
A Well, a little, yes.
Q When it is spoken rapidly?
A No.
Q If you heard two men speaking it excitedly and in a state of agitation over a matter would you understand anything they say?
A I may be able to catch part of it.
Q Now, as a matter of fact, you didn't understand a single word that was said at these meetings?
A I wouldn't say I didn't understand a single word.
Q You might have got a word here and there?
A That is about all.

Q And you really couldn't say what they were deliberating upon, or what these resolutions were or how they were being offered, or anything about it, could you?

A No, sir.

F. CORNELIUS SNOOP, sworn.

Direct examination by Mr. Foulds.

Q You are a member of the North Side Christian Reformed Church?

A Yes.

Q How long have you been a member of that church?

A Well, about fourteen years.

Q Do you continue worshipping with the complainants and their associates?

A Yes.

Q Right down to the present time?

A Yes.

Q Were you a member of the church on January 7, 1912?

A Yes.

Q Did you attend the morning service that day?

A Yes, I did.

Q What announcement was made at that time with reference to meeting?

A Well, after services was over, and benediction given, Mr. Bast got up on his feet, at that time he was elder, and announced there would be a meeting held to talk about the installation of the newly elected elders and deacons.

Q Did he say when that meeting would be?

A After the afternoon services.

Q Did you attend that meeting?

A No, sir.

Q Why not?

A At the afternoon service Rev. Kaiser, who was our minister that Sunday, he announced such meet-

ing would not be held, so I considered that an illegal meeting.

Q Did you attend the meeting on January 9th?

A No, sir.

Q Did you receive notice of that meeting?

A Not personally.

Q You knew there was going to be a meeting of that kind held, didn't you?

A A gathering, yes.

Q Why didn't you attend that meeting?

A Because the same reason as the Sunday meeting, illegal.

Q You considered it an illegal meeting?

A Yes.

Q From January down to the present time did you continue to attend the services of the complainants?

A Yes.

No Cross Examination.

H. VAN REKEN, sworn.

Direct examination by Mr. Foulds.

Q You speak the Holland language, do you?

A Yes.

Q Did you attend the meeting at the North Side Church on Sunday afternoon, January 7th, after the regular service?

A Yes.

Q Did you hear a vote taken at that time?

A Yes, sir.

Q Was there any one voting in opposition to the resolution, any one voted against it?

A Yes. There were two.

Q What were they voting on? What was the resolution?

Mr. Bradley. I state this my objection to all the testimony of this nature of that meeting of

January 7, upon the same ground previously stated, that the minutes of the meeting are the only proper evidence.

The Court. I understand the minutes are to be offered, of course. If they are not offered I will strike all this testimony out.

Q (Question read.)

A That they would cut lose from the Hudson Classis and reinstate the minister.

Q And did any one vote against that resolution?

A Yes.

Q How many?

A Two.

Q Did you attend the meeting of January 9th?

A No, sir, I did not.

No Cross Examination.

GERRET WESTENBERG, sworn.

Direct examination by Mr. Foulds.

Q What is your occupation?

A A minister of the Gospel.

Q And connected with what denomination?

A Christian Reformed Church.

Q You are Stated Clerk of the Classis of Hudson of that denomination?

A I am.

Q And have occupied that position for how long?

A For nearly nine years now.

Q What is the Christian Reformed Church of America?

A It is a denomination that is grounded upon the Articles of Dort from 1618 and 1619, and holds the Reformed doctrine and church government, and the Reformed denomination in the Netherland joined the State and became a State church in the Netherlands in 1816, and ran its course as a State church until 1834, when a part of the State church seceded and became a

separate denomination, a free church again, upon the basis of 1618 and 1619. Part of this church, which was called the seceded church in the Netherlands, emigrated to America in 1847, remained here for two years separately, and joined the Reformed Church of America, then called the Reformed Dutch Church, I think; ("Dutch" is now between the parenthesis) in 1849, conditionally; the condition was this, that if churches or members that had joined would find anything that was not suitable in the Reformed Church of America, they were welcome to secede and again take their old place as a separate denomination as they had come from the Netherlands two years before. They remained in the Reformed Church of America for eight years, until the year 1857, and then part of those that had joined in 1849 again stepped back, according to the condition of joining, and became again the distinct church that had left the Netherlands in 1847. That is our Christian Reformed Church of the present day.

Q Where are the rules of government and discipline and doctrine found?

A All from the Synod of Dort in 1618 and 1619, and the rules and regulations or amendments and resolutions of synods since 1857 to the present date.

Q How is that church organized, the Christian Reformed Church of America?

A It is organized on the principles of Dort as congregation which exists as soon as a consistory is elected and installed, the consistory being the lower court, and above the consistory is the classis, which is a meting of two delegates of each local church, and is the higher court of the church.

Q (*By the Court.*) That is, the area covered by the classis is limited, isn't it?

A Yes, it is locally limited. Here in the east we have only one Holland Classis and one American speaking Classis, which extends up to the great lakes.

And then above the classis, which are plural in the church of course, is the Synod; that meets every two years, and is the last resort of appeal, namely, the highest court in the church.

Q (*By the Court*) What is the constitution of the Synod, who constitute it?

A It constitutes itself out of the delegates that are sent by the various classis, three ministers and three elders from each classis.

Q What is the authority in church government of the congregation?

The Court. Haven't you got a point where you have got to introduce the rules themselves?

Mr. Foulds. I offer in evidence the first twenty-four pages of this book entitled "Rules of Church Government established in the National Synod of Dordrecht 1618 and 1619."

(Marked Exhibit C. 6.)

Q Referring to Exhibit C. 6, will you explain what authority the congregation has in church government?

A The local church?

Q The congregation?

A Well, the congregation has only authority by its consistory; of course the congregation has no authority whatever except a right to vote and an appeal by each member of the higher court. Then the consistory has only a right of action insofar as it agrees with the Articles of Dort and the various decisions of the higher courts in the classis and synod.

Q (*By the Court.*) Show me where that is in those articles, the authority of the consistory, show me what article relates to the authority of the consistory.

A Of course we hold as a church ourselves to the principles that we call Reformed, and which are not disputed, and those principles are only in that book; then a consistory is supreme, except there is a appeal by the congregation, first, because the congregation

is never mentioned to execute any rule in the entire book, or any of the resolutions of Synod members have only the right of vote, and the right of appeal; in the second place—

Q (*By the Court*) Where do you find all that?

A A consistory calls ministers,—in Article 4.

Q (*By the Court*) That relates to the call of the classis?

A Yes; the consistory does that.

Q (*By the Court*) Is that all the authority the consistory has?

A No.

Q (*By the Court.*) Is there any article here in these articles which bunch together all the authority of the consistory?

A No, sir, not in such a way. The consistory, in the second place, may choose elders and deacons, Article 12.

Mr. Bradley. There is no such thing in Article 12.

The Court. No, not in 12.

A Well, the consistory then in Article 11 is called the representative body of the congregation.

Q (*By the Court.*) Represents the congregation?

A Represents the congregation. The consistory has the discipline in hand, Article 75. The consistory has the power to prolong time for discipline, in Article 77. The consistory has the power to discipline officers,—Article 79. The consistory is the lowest church court,—Article 29. The congregation is not mentioned here at all. I would call attention to also this. Lower court must furnish all possible matter that is before it before it can be brought to the attention of the classis,—Article 30.

Q (*By the Court*) So it has plenary original jurisdiction, that is your idea, plenary original jurisdiction?

A Yes, sir.

Q (*By the Court.*) And its decisions can only be reversed by appeal to the classis?

A Yes.

The Court. And so on to the General Synod.

Mr. Foulds. I offer in evidence the official acts of the Synod of the denomination held June 15 to 24, 1910, page 133, entitled Formula of Subscription.

Q What is this formula of subscription?

A That is the form that every elder and deacon must subscribe to before they can act as an officer.

Q From this I read the latter part of the third paragraph, "Being ready always cheerfully to submit to the judgment of the consistory, classes and synod, under the penalty in case of refusal to be *ipso facto* suspended from office."

RECESS.

Q Referring to the custom and usage of your denomination, what body conducts the business affairs of the subsiduary church?

A Of the local church?

Q Yes?

A Consistory.

Q And what authority has classis?

A It has no authority unless the consistory has power to work out what comes before it.

Q Is that true with reference to the charges against ministers?

A No, sir; the ministers are first suspended by the consistory, or double consistory, if necessary, and then the matter is brought to classis, and classis always has an authority over a consistory, if necessary to do it, if the consistory does not act according to church laws.

Mr. Bradley. I object to this testimony if it is based upon rules which—

The Court. Insofar as he is stating customs and usages that are outside of any rules, he may state those, and I gather from the testimony that he is giving, that those customs and usages are very intimately bound up with the articles, and he can hardly tell about the customs and usages without mentioning the articles also; but the articles of the Synod of Dort, I suppose are the controlling thing; custom and usage is controlling, too, where there is no rule, where there is no written rule.

Q Is there an established custom and usage in your church as to when elders and deacons take their office?

A Yes.

Q What is that rule?

A That rule is that they are elected at a certain date, either by the consistory or by the congregation, as the consistory may rule, and that the names are published two times in a regular church service, that is two consecutive dates, different dates, and that thereupon they are installed by that consistory through the agency of a minister of the Gospel, either a local minister or any other minister—but the consistory, it is upon the action of the consistory.

Q And when is their office complete?

A Their office is only complete when, after they have been installed they have subscribed to that form which we have for that purpose, form and subscription.

Q Prior to the service of installation or confirmation have they any official powers?

A None whatever.

Q What is the office of consulent?

A A consulent serves the adjacent church, where he is appointed as a consulent to help that church, as if he is—were the minister of that church.

Q He acts as a minister of a church in the absence of a minister?

A Yes; as far as he is appointed over that church.

Q Were you appointed consulent of the North Side Church at any time?

A I was.

Q When?

A Why, at the time—date, of course my memory isn't very strong on dates—but at the time when the minister was suspended from the work in his congregation, but the date I cannot tell you.

Q Have you the minutes of the Classis of Hudson?

A Yes, I have them at home, but not here at hand.

Q You are the stated clerk of that classis, are you not?

A Yes; I hold them.

Q You have made a translation of the minutes of classis of Hudson for August 3, 1911, November 23, 1911, December 13, 1911, January 11, 1912. Are these which I show you, filed with the bill of complaint in this cause on February 8, 1912, a correct translation of those minutes?

The Court. Did he make the translation?

Mr. Foulds. His affidavit is that he made the translation, and they are correct.

A These are the translation of the session of the Classis of Hudson insofar as they have bearing on this case, yes.

Mr. Foulds. I offer those in evidence.

Q (*By Mr. Bradley.*) These minutes that you have just looked over, is that a true copy of the translation that you have made, and you have read them?

A I have read them.

Mr. Bradley. There is no objection to those as being copies or translations, but I object to them as being irrelevant and immaterial.

The Court. I will overrule the objection; I will admit them.

Marked Exhibit C. 7.

Q In the event that charges are presented against elected elders and deacons before their confirmation, what is the practice, custom and usage of your church?

A The action stays right there as far as they have advanced until investigation has been made and either the charges have been found to be true and consequently censure is imposed, or otherwise, and if it is not true, consequently proceed with the confirmation.

Q May the consistory proceed to install elders and deacons-elect even though objections are interposed?

A They may not proceed with installation as long as there are any objections that have not had their term of investigations and legal action.

Q Have you a form of the ordination of elders and deacons?

A Yes, we have.

Mr. Foulds. I offer that in evidence.

Marked Exhibit C. 8.

Q This form, Exhibit C. 8, is the one that is used at the ordination of elders and deacons in the Christian Reformed Church?

A Yes.

Q By what body is a minister suspended in your denomination?

A Suspended by double consistory, the consistory of the local church with the next adjacent consistory, which is called.

Q And by what is a deacon disciplined, removed or suspended?

A They are suspended by their own consistory, without the help of another consistory, but they are removed instantly or immediately, if necessary, by the double consistory according to Article 79.

Q Is any term, any stated time of notice provided before which the removal or suspension may take place?

A Of elders and deacons, none at all.

Q I refer you to Article 79. (Article 79 read.) That is the rule in effect?

The Court. The rule is in evidence; they are all in evidence.

Q What is the custom or usage in your church with reference to the calling of the meeting of the congregation?

A The congregation is always exclusively called by the consistory.

Q May it be called in any other way?

A It can not be called in any other way.

Q What notice is required for the calling of the meeting of the congregation?

A When actions are in the hands of the consistory to take place at such a meeting that are very important it must be published two Sundays.

Q (*By the Court.*) Where do you find the authority for that? Is that a mere custom, or is there a written rule about it?

A It is more unwritten law that we have in our denomination that we call—that is reformed—reformed principle.

Q (*By the Court.*) It is custom then, and not a written rule?

A I don't know of any written rule, it is so generally known in our church.

Q It is testified in this case, that on January 7, at the morning service one, Bast, arose and said that there would be a meeting of the congregation after the close of the afternoon service. Would a meeting so called be legal?

A It would not.

The Court. That is a question I have got to decide.

Q May a meeting be called by members of the congregation, not members of the consistory, and merely by distributing a printed notice?

A It can not be called by any one or any number of the congregation whatever, unless it is by petition to the consistory, but the consistory calls the meeting.

Q What is the first step of church discipline and censure?

A The first step is that such a person is no longer qualified to vote, and is withheld from the sacraments.

Q How may that discipline be imposed?

A That is imposed upon members by the consistory upon members of the consistory by the consistory also, and they are deposed from office by the double consistory.

Q Has classis acted upon the dispute in this case?

A Yes.

Q And have they decided in favor—

The Court. Oh, no.

Mr. Bradley. I object to that.

The Court. The witness wants to correct his evidence.

A Article 12 was to be 22.

Q (*By the Court.*) That is, in your testimony you refer to Article 12 and meant Article 22?

A Yes, exactly.

(Referring to Exhibit C. 6.)

Cross examination by Mr. Bradley.

Q The Christian Reformed Church as it now exists as a denomination in America was originally formed by secession from the Reformed Church in Holland, was it not?

A In the Netherlands, yes.

Q That was about 1847?

A 1834.

Q Was that church formed in the Netherlands as a Christian Reformed Church before it came to America, or is it purely an American branch of the Reformed Church?

A It was a church when they came to America, of course a branch from the church in the Netherlands came to America.

Q And that denomination in the Netherlands had been formed by seceding from the original Dutch Church?

A Yes, from the State Church there.

Q Which was the church which convened the Synod of Dort in 1619?

A No, not exactly; the church had diverted from the original 1619 church in 1816, and from that church, dating from 1816, this 1834 church seceded, or went back rather to the place of 1816.

Q Then in 1849, when the Christian Reformed Church joined the Reformed Church of America, you then specifically retained the right of secession from it, did you not, and at that time, and at all times since, you adhere to the Synod of Dort as your article of faith, do you not?

A Yes.

Q And conform in all respects to the rules promulgated by the Synod of Dort, do you not?

A Yes.

Q Both as articles of faith and as rules of church government?

A Well, the articles of faith we have are three formulas of unity with the articles here in the church government.

Q And so far as you have no specific rules which are contrary to the rules promulgated by the Synod of Dort you adhere to those rules, do you not?

A Oh, sure.

Q (*By the Court.*) There is no confession of faith in these articles that have been put in evidence, are there?

A No; they are in that other book there, your honor.

Q (*By the Court.*) The articles you put in evidence are marked Exhibit C. 6 and are mere rules for church government?

A Yes.

Q Now in addition to the rules of church government, which appear between pages three and twenty-four in the book marked Exhibit C. 6, there appear in that same book betweeen pages forty-five and eighty-six rules of church government, with a note stating that they are rules established in the Synod of Dort 1618 and 1619. Now will you tell me what those rules are?

A These are rules that have been in force with the True Reformed Dutch Church, the Classis of Hackensack, in the '90's; when that True Reformed Dutch Church joined with our Christian Reformed Church they had this book, also this appendix, to the Articles of Dort, and they were admitted, with this concession by our synod, that they could keep that for their classis as long as they saw fit, also that appendix, in the Classis of Hackensack, which then became Classis of Hackensack of the Christian Reformed Church.

Q And the Christian Reformed Church and the True Reformed Church are now united, are they not?

A Not in that sense as united, but they have become classis of the Christian Reformed Church.

Q Is there any True Reformed Church in America now?

A Yes, sir.

Q What is it?

A The True Reformed Dutch Church.

Q Is it a separate denomination now from the Christian Reformed Church?

A Yes, very small, but it exists.

Q Is this Classis of Hackensack that you spoke of considered a Christian Reformed Classis?

A That is a Christian Reformed Classis, yes.

Q The True Reformed Dutch Church is also formed by a secession, is it not, from the Reformed Church in America?

A No, sir.

Q Just as Christian Reformed Church was?

A No, sir.

Q Why not? What is the difference?

A Christian Reformed Church was not secession in that sense of the word—simply stepped back to their former standpoint according to agreement, but the former Dutch Reformed Church seceded in 1822.

Q But the Christian Reformed Church's former standpoint was that of seceders from the church in Holland and Netherlands?

A Well, there is a little difference there. The church in 1816 had receded from the original point of Dort, and during the years of 1816 to 1834 the church was not what we called Dort, and then in 1834 this branch stepped back to what the church had left in 1816, while the True Reformed Church receded in 1822 from the Reformed Dutch Church.

The Court. This is very interesting as far as information goes, but how material is it?

Mr. Bradley. I am interested in tracing the course of secession of this church, the Christian Reformed Church, because the whole church is built upon secession. It is in fact very material.

Q Now you have stated at some length in your direct examination a great variety of rules of church government so far as they are not provided for by the Synod of Dort or in the written rules for this particular congregation of North Side. You were testifying to what is simply general custom, were you not?

A Custom and practice which is an unwritten rule and is always upheld by all sessions of consistories as far as they are acting in good faith, and classis and synod.

Q With respect to the rules for calling meetings of the congregation, you were not quoting from any written rule, were you?

A That is whether the consistory is to call the meeting you mean?

Q The nature of the notice to be given to the congregation?

A Well, not to any written rule, except that the consistory always represents the congregation, and then our customs and unwritten rules, which are as sure in any of our sessions as any written rule can be.

J. B. HOEKSTRA, sworn.

Direct examination by Mr. Foulds.

Q You are the clerk of the General Synod which met at Chicago, June 19-27, 1912, of the Christian Reformed Church?

A Yes.

Mr. Foulds. I offer in evidence this record of the synod—translation.

Mr. Bradley. Not objected to as a translation.

The Court. Do you identify that as anything you ever saw before?

Q Is that the action of the Synod of 1912 of the Christian Reformed Church?

A Yes, sir.

Q Is it a true copy of the minutes?

A Yes.

Mr. Foulds. I offer in evidence the minute appearing on page sixty-one of the acts of Synod of 1912.

Mr. Bradley. I object to it on the ground that it is irrelevant and immaterial.

The Court. I will admit it.

Mr. Bradley. I do not object on the ground of competency.

Marked Exhibit C. 9.

Mr. Foulds. I offer in evidence translation of Exhibit C. 9.

Marked Exhibit C. 10.

Q How long have you been in the Christian Reformed denomination?

A Twenty-five years, sir.

Q And have you made a study of the laws of that denomination?

A Yes—well, a little bit, as far as needed in the church work.

Q You are a minister of that denomination?

A Yes.

Q And have studied at its seminary?

A Yes.

Q The denomination of Christian Reformed Church of America conducts its own seminary for the instruction of ministers?

A Yes.

Q And ministerial students?

A Yes.

Q In what way may a meeting of the congregation of a church of that denomination be called?

A By the consistory.

Q May it be called in any other way?

A No.

Cross examination by Mr. Bradley.

Q Have you ever had any occasion to examine carefully the rules regarding the callings of meetings?

A As far as I needed in our church work.

Q Have you ever had any dispute as to whether a meeting was properly called or not?

A I don't know.

Q It never was particularly important to you to decide whether a meeting was called or not, was it?

A No, sir.

Q You are only generally familiar with these rules from your church work and as pastor, are you not?

A Yes.

MATHYS KLAAPMUST, sworn.

Direct examination by Mr. Foulds.

Q You were one of the incorporators of the North Side Christian Reformed Church of Passaic?

A Yes.

Q You signed the certificate of incorporation?

A Yes, I did.

Q At that time you were an elder of that church, weren't you?

A Yes.

Q Have you continued your membership in that church down to the present time?

A Yes, sir.

Q On January 7, 1912, you were a member of that church, weren't you?

A Yes.

Q And did you hear Mr. Bast call a meeting for Sunday afternoon, January 7th?

A Yes.

Q Did you attend that meeting?

A No, sir.

Q Why?

A Well, unlegal, and no custom.

Q That is the reason you did not attend?

A Yes, sir.

Q Did you get a notice of the meeting of January 9th?

A Was given the notice to my wife, I didn't get it myself; somebody brought one to my wife.

Q Why didn't you attend that meeting?

A Well, I could not attend that meeting because it was called together by some members of the church, and they never attend a meeting that was called together by members of the church; we always attend meeting that was called together by consistory of the church, read from the pulpit, you know, on Sunday, week before, announcement from the pulpit that there is going to be a meeting of the congregation.

Q That is the reason you did not attend?

A Yes.

Q Since January 7th which side have you continued with?

A The North Side Christian Reformed Church.

Q The complainants?

A Yes.

Mr. Bradley. I object to that question and answer and ask to have them both stricken out. It is not clear at all.

The Court. I think it is proper for him to declare his adherence to one side or the other.

Mr. Bradley. Yes, but I object to his characterizing the side that he adheres to as the North Side Christian Reformed Church.

The Court. That don't make any difference to me.

Q Have you attended the services regularly since that time?

A Yes, I did.

No Cross Examination.

LEONARD WYNBEEK, sworn.

Direct examination by Mr. Foulds.

Q You are one of the complainants in this case?

A Yes.

Q Are you a member of the consistory of the North Side Church?

A Yes.

Q When were you elected, the year prior to this?

A In the latter part of 1910.

Q You are not one of those whose term of office would expire January, 1912?

A No, sir.

Q In January, 1912, you were acting as a deacon, weren't you?

A Yes, sir.

Q Did you attend a meeting of the church for worship on Sunday morning, January 7th?

A Yes.

Q And did you hear Bast call a meeting for the afternoon?

A Yes, I did.

Q Did you attend that meeting?

A No, sir.

Q Why?

A I did not consider that was legal, being legally called.

Q Did you receive a notice of a meeting of January 9th?

A Yes.

Q Did you attend?

A No, sir.

Q Why?

A For the same reason.

Q In addition to that were you suffering from any physical disability?

A Yes, I was laid up.

Q So that it was physically impossible for you to get there?

A Yes.

Q Since January 7th have you continued in your affiliation with the complainants side?

A Yes.

Q And attended the services of the complainant?

A Yes, regularly.

Q Were you ever kept out of church by the defendants?

A No, sir.

Q Did you attempt to attend a meeting there at any time and unable to get in?

A I tried to attend a meeting on the 8th of January, the Monday, supposed to have a consistory meeting there, but I met some of the other ones who had tried before, and I joined them to go to the house of

Mr. Hornstra, where we had a regular consistory meeting then.

Q (*By the Court.*) You did not go to the church at all on that occasion?

A No, sir.

Q You have been treasurer of the church, haven't you, some time?

A Yes, since the first of January, 1911.

Q As treasurer do you know anything about the contributions of your side to the denomination?

A You mean after the split?

Q Yes.

A Yes, we kept up as regularly as possible to send contributions to the treasurer of the Classis of Hudson.

Q And have you recognized the Classis of Hudson in every way?

The Court. No; what have you done?

Q What have you done with reference to the Classis of Hudson in 1912?

A We have sent in regularly all the collections and contributions we have to make yearly for all the funds of the Christian Reformed Church, like one of the witnesses said before this morning, for the theological school, and for the widows' and orphans' fund, and emeritus fund, and mission fund, and classis expense, synod expense.

Q Have you sent your delegates to Classis of Hudson?

A Yes.

Q You attended the meeting on January 4th?

A Yes.

Q Of the consistory?

A Yes.

Q What was the vote at that meeting on the question of delaying the installation?

Mr. Bradley. I object to that. The minutes show what the vote was.

Mr. Foulds. Two minutes show different votes, your honor, please.

The Court. I will let it in on the ground that it is contested.

A Five in favor, three opposed, and one neutral.

Mr. Bradley. I object to that answer as not being responsive to anything. He says five for, three against, one not voting; he doesn't say what for.

Q What was the question that vote was taken on?

A The question of postponing the installation of the newly elected deacons and elders.

Q Whether it should be postponed or not?

A Yes.

Cross examination by Mr. Bradley.

Q You say that you attended a meeting of the consistory on Monday, January 8th?

A Yes.

Q Who composed what you call the consistory at that meeting?

A The complainants.

Q Who?

A The complainants in this case.

Q And no one else?

A And Rev. Westenberg.

Q You were the treasurer of the church, were you not?

A Yes.

Q Before the split?

A And after.

Q Did you have any moneys in your custody at the time?

A All the church money.

Q How much was that on January 4th?

A I couldn't tell from my recollection.

Q Well, about how much?

A I couldn't tell now.

Q Well, did you have some cash?

A Probably I deposited the moneys in the bank.

Q And subject to your order, I suppose?

A Yes.

Q Did you use what money you had at that time subsequently?

Mr. Foulds. I object to that; that is not proper cross examination. I don't know what counsel is trying to bring out, but we didn't go into that on direct examination.

The Court. He testified that as treasurer he had paid the various assessments, if they may be so-called, and the expenses of the superior body; he didn't say he had paid that before or after the split; let him answer the question. I will overrule the objection.

Q (Question read.)

A I do not understand the meaning of this question.

Q What did you use the money you had on hand for?

A For the general expenses and purposes of the Christian Reformed Church.

Q After the split?

A Yes.

Q You used some of it for the purposes of the Classis of Hudson and for contributions to general classis purposes, did you not?

A I don't know if it is exactly the money we had on hand then, it may be some of the money afterwards collected, I couldn't tell; if I had my books here I could tell, but not now; I know there was not a very large balance, because it just happened between Christmas and New Years, we had paid off as much as we could to close up the books for the year, so it was only small balance on hand.

Q Did you keep any cash on hand in the safe in the consistory room?

A Yes.
Q Did you take that away?
A Yes.
Q When?
A On January 7.
Q On Sunday, January 7?
A No, on Monday the 8th.
Q After the split?
A Yes.

HERBERT PRINS, sworn.

Direct examination by Mr. Foulds.

Q You are one of the complainants?
A Yes, sir.
Q And how long have you been a member of the North Side Christian Reformed Church of Passaic?
A About five years and a half.
Q Were you a member on January 7, 1912?
A Yes, sir.
Q Were you a member of the consistory at that time?
A Yes, and elder.
Q You had been regularly installed, had you, as such?

Mr. Bradley. I object to that.

A Yes, sir.

The Court. That is not objectionable at all.

Q Were you at the morning service January 7, 1912?
A Yes, sir.
Q Did you hear Bast speak of an afternoon service?
A Yes, he called the meeting for to discuss the installation of the new elected elders and deacons.
Q What did he say, as nearly as you remember?
A That is what he said, "We call,—I, in the name of Groenhof calls a meeting of the male members to

discuss the installation of the newly elected elders and deacons."

Q Did he say when that would be?

A It would be after the afternoon services.

Q And did you stay to that service, did you stay to the Bast meeting?

A No.

Q Why?

A Because it was not a meeting called by the consistory, and a single member has no right to call consistory meeting, or congregational meeting.

Q Were you at the meeting of consistory on January 4?

A Yes.

Q And did you hear a vote taken there on the question of delaying the installation?

A Yes.

Q What was that vote?

A The vote was five for delaying, three against, and one silent.

Q What were they voting on?

A They voted on the postponing of the installation of the newly elected elders and deacons.

Q Postponing it from what time?

A From the 7th of January, that was the time appointed.

Q January 7th had been previously appointed?

A Yes.

Q Did you receive a notice for the meeting of January 9th?

A Yes, I received a notice signed by nine members, so I was called there by nine members to a congregational meeting, and I did not went there because there shall be a congregational meeting called when the meeting is called by the consistory.

Mr. Foulds. I offer in evidence this notice of that meeting.

"Passaic, New Jersey January 8, 1912.

We, undersigned members of the North Side Christian Reformed Church of Passaic, N. J., members in full communion, call a congregational meeting to be held Tuesday evening, January 9, 1912, at eight o'clock in the church building on the southwest corner of Myrtle avenue and Burgess place, Passaic, N. J., with the intention to decide concerning the relations in case of severing from the Classis of Hudson, and what further lawfully may be brought before the gathering.

Nicholas Rienstra.
John W. Ward.
Theodore Pruiksma.
Leonard Fisher.
Cornelius Van Vleet.
Jetze Pruiksma.
C. P. Van Gendren.
William Knipers.
William Heemstra."

Q Were any of those names whose names were signed to that notice members of the consistory?

A No, sir.

Q Did they hold any official position in the church?

A No, sir.

Q Did you attend that meeting of January 9?

A Well, I was in the meeting, but not to attend to the meeting, but I was there, appointed as a committee, with brother Hornstra, as a committee we were appointed.

Q You were appointed a commitee by whom?

A To serve written notice to fourteen members who were under censure, who were put under censure on account of sins committed.

Q And you attended at the church on January 9 while that meeting was in session for the purpose of serving those notices?

A Yes.

Q And did you serve those notices?

A Yes.

Q Did you take any part in this meeting of January 9?

A No, sir.

Q Why?

A Because that meeting was not called by the man who had authority, and therefore we called it an illegal meeting.

Q Since that time you have attended the services, religious services of the complainants?

A Yes.

Q And worshiped regularly with them down to the present time?

A Yes, sir.

Q And your consistory has held regular consistory meetings?

A Yes, every two weeks.

Q Continuous?

A Yes.

Q And in every other respect you have carried on the worship according to the doctrines and discipline of the Christian Reformed denomination?

A Yes. There was no change on our side.

Cross examination by Mr. Bradley.

Q On January 9, when you attended this meeting in the church, how long did it take you to serve the notices?

A Well, I think about ten minutes.

Q And how long did the meeting last?

A I don't know, because I went in the church when the meeting was started already, and we went out before it was finished.

Q After you had served the notices did you stay in for a while, or did you go out?

A No; we stayed in there for a while, just enough time to serve the notices to the members.

Q Also enough time to see what was going on, didn't you?

A No; but while we was there we noticed that they was discussing some matter about secession, and I hear another man come up against it, a man by the name of Renken, he was against it.

Q You remember that vote that was taken while you were there; do you remember a vote that was taken while you were there?

A Yes.

Q And did you vote on it?

A No, sir.

Q You had a chance to if you had wanted to, didn't you?

A A chance to vote?

Q You could have a vote if you wanted to?

A No, of course I couldn't vote, because we called the meeting illegal.

Q You could have voted if you wanted to though. Supposing you hadn't thought it was illegal, nobody would have prevented your voting, would they?

A I had to give up my principle, that is what I had to do.

Q So far as your ability to vote was concerned you could have done it?

A Yes; but I wouldn't give up my principle.

Q And the same thing is true of Mr. Hornstra, wasn't it?

A Yes.

Q He was present with you the whole time?

A Yes.

Q He could have voted too if he wanted to?

A Yes, but he didn't.

Q But neither of you said anything at all?

A No, we didn't say anything, but the serving of the notices, the consistory appointed us a committee to serve those people with a notice of censure as a protest against what they had done by calling that

meeting, some of them; others ran through a form of installation, they let themselves install themselves as elders and deacons.

Q (*By the Court.*) They were to install themselves as elders and deacons?

A Yes; there was no authority to do it.

Q When you speak of having been appointed a commitee to serve notices by the consistory, you mean by what you call the consistory consisting of the complainants in this case, don't you?

A That is what I call the regular consistory of the North Side Christian Reformed Church, that is what it always has been.

Q It was those five men that appointed you and Mr. Hornstra a commitee?

A Me and Mr. Hornstra was appointed a committee, yes.

Q Now when you were installed for the first time there as an elder, when did that take place?

A That took place in the latter part of January.

Q In what year?

A 1910; it was in the latter part of January, because there was brought in complaints against some of the elected members, and then the installation was postponed for two Sundays, I think it was.

Q And you were serving that term as elders in 1912?

A Yes.

Q The same term?

A Yes.

Q In 1910 you were succeeding yourself as an elder, weren't you? You had been elder before that, hadn't you?

A Not in the North Side Reformed Church.

Q Was that the first time you had been an elder?

A Yes.

EDWARD LAZARE, sworn.

Direct examination by Mr. Foulds.

Q You were a member of the North Side Christian Reformed Church in January, 1912?

A Yes, sir.

Q Did you attend the church services in the morning on that day?

A In the morning.

Q Did you attend the Bast meeting in the afternoon?

A I attended the service in the afternoon.

Q Then did you stay to the meeting afterwards?

A Yes.

Q Tell us what you heard at the afternoon service, what was said at the afternoon service?

A I was surprised, I see only—

Q What did the dominie say at that meeting?

A Dominie wasn't at the meeting.

Q At the service, in the afternoon worship?

A The dominie said the meeting that was called for by Bast was unlawful.

Q And then did you stay to the service of the Bast meeting?

A Yes; I was anxious to see what was going on in the church.

Q And what was done at that meeting?

A I was surprised to see only one side, faction, and I thought by myself it is a bad time to have a meeting because not all the members of the church.

Q (*By the Court.*) Did you say that?

A No, I thought that.

The Court. Tell what was said and done; not what was thought.

A I had nothing to say in the meeting until they were about to go.

Q Then what did you say?

A I fought against what was up.

Q What was up?

A To part with the Classis of Hudson.

Q You voted against that?

A Yes, I voted against that.

Q Did anyone else vote against it?

A Yes; I don't know them by name, but I think I heard some one behind me vote against it too.

Q Did you attend the meeting on January 9, Tuesday?

A No, sir.

Q Do you worship with the complainants, Mr. Hornstra and those people?

A Yes.

Q And attend their services regularly?

A Yes, sir.

Cross examination by Mr. Bradley.

Q You hold no official position in the church, do you?

A No, sir.

Q But you are a member in full communion?

A Yes, sir.

Q Now at the service of Sunday, January 7, you say that the dominie stood up in the pulpit and announced that the meeting that was about to be held was unlawful; now who do you mean by the dominie, you mean the Rev. Arie J. Van den Heuvel?

A No; I mean Dr. Kaiser, who was preaching that day.

Q He was not the dominie?

A That is the name that we always give for the priest in our church, we call him dominie.

Q You don't mean he was pastor of that congregation?

A I think we recognized him as pastor.

Q Did this Dr. Kaiser, who announced the meeting was unlawful, have any official connection with the North Side Christian Reformed Church?

A Dominie Kaiser you mean?

Q Yes.

A He is one of the classis' dominies.

Q He was not in charge of that church at the time, was he? He was simply conducting services there for that Sunday, merely visiting clergyman?

A Yes.

RINE S. DE VRIES, sworn.

Direct examination by Mr. Foulds.

Q You were a member of the North Side Christian Reformed Church prior to January 7, 1912?

A Yes, sir.

Q And you are still a member of that church?

A Yes, sir.

Q Worshipping with the complainants?

A Yes, sir.

Q Have you attended the services regularly?

A Yes, sir.

Q Were you at the North Side services on the morning of Sunday, January 7, 1912?

A Yes, sir.

Q Did you hear Bast call a meeting for the afternoon?

A Yes.

Q What did he say?

A He said there would be a meeting in the afternoon to talk about the installation of the elders and deacons.

Q To decide about?

A Talk about.

Q Did you attend the service in the afternoon?

A Yes, sir.

Q Was anything said then about the Bast meeting?

A Only it was announced in the pulpit by the Rev. Kaiser.

Q What was said?

A That there would be no installation take place to-day.

Q Do you remember whether he said anything about their meeting being legal or illegal?

A No, I don't.

Q Did you attend the Bast meeting?

A No, sir.

Q Why not?

A It was illegal.

Q You considered it illegal?

A Yes, sir.

Q Did they serve on you a notice of the meeting of January 9?

A I never seen one.

Cross examination by Mr. Bradley.

Q Are you still worshipping with the faction represented by Mr. Hornstra and Mr. Prins?

A Yes.

Q Were you in full standing in the North Side Church January, 1912?

A Yes, sir.

Q You were anxious to leave that church at that time, were you not?

A Christian Reformed? No, sir.

Q Hadn't you given up your pew and asked for papers earlier in the year, or in the latter part of 1911?

A Yes, to the English Christian Reformed Church.

Q Where is that situated?

A Prospect street, Passaic.

Q And did you not join that church?

A No, sir.

Q Well, how is it that you asked for your papers and had them given to you then?

A Confusion in the congregation.

The Court. He didn't say they had given his papers to him; he said he asked for them.

Q Did they never give you your papers?

A Not to transfer. I withdrew my motion afterwards.

CORNELIUS MAAT, sworn.

Direct examination by Mr. Foulds.

Q You were a member of the North Side Christian Reformed Church in January, 1912?

A Yes.

Q And do you worship with the complainants now at the present time?

A Yes.

Q Were you present at the Sunday morning service on January 7, 1912?

A Yes, sir.

Q Did you hear Bast call a meeting for the afternoon?

A I did.

Q What did he say?

A He announced that there should be a meeting in the afternoon after service.

Q (*By the Court.*) Did he say what for?

A Yes; on account of the newly elected elders and deacons.

Q Did you attend the meeting in the afternoon?

A I did not.

Q Why?

A Because it was not a legal meeting, that is the reason I didn't go.

Q Were you served with a notice of the meeting of January 9th?

A I don't know; not personally.

Q Personally you were not served?

A No.

Q Did you attend the meeting of January 9th?

A I did not.

Q You have attended the services regularly of the complainants down to this time?

A Yes.

Cross examination by Mr. Bradley.

Q You had actual notice of the meeting of January 9th, did you not?

A That might be; I said I don't know, I don't remember.

Q You knew that the meeting was going to take place in the evening of January 9th?

A I know.

Q When you say that you did not attend the meeting of January 7th because it was not a legal meeting what made you think so?

A Because it isn't usual, it is not legal in our church, the rules of the church.

Q Somebody told you that it wasn't legal, didn't they?

A I know that myself.

Q Well, you knew that of your own knowledge, do you?

A Yes, I do.

Q What did you base your knowledge on?

A Well, because I was four or five years elder myself in the church.

Q It was a matter of common conversation amongst all the members of the church, wasn't it, at the time, that there was a meeting to be held that afternoon, and many of you decided that you would not attend, wasn't that the case? You talked it over amongst yourselves, didn't you, whether you would go or not?

A Yes.

Q You talked it over with a lot of others, didn't you?

A A lot of others not to go?

Q Yes.

A I did not.

Q You did not?

A No.

HERMAN TULS, sworn.

Direct examination by Mr. Foulds.

Q You are a minister of the Christian Reformed denomination?

A Yes.

Q And how long have you been connected with that denomination?

A As a pastor about seven years and a half.

Q How long have you been connected with the Classis of Hudson?

A I have been here, I am here for the second time now, the second time it is about four weeks.

Q How long ago did you go to another classis, how long have you been absent from this classis?

A I became a member of the Classis of Hudson September, 1905, and left again in 1908, and I returned last March.

Q You went out to Michigan and have just come back recently?

A Yes.

Q Did you study the laws and rules of that denomination?

A Yes.

Q Where?

A At the theological seminary of the church, located at Grand Rapids.

Q That seminary is devoted to this particular denomination?

A Yes.

Q This denomination of Christian Reformed Church of America is a distinct denomination, isn't it?

A Yes.

Q In what manner may congregational meetings be called in that denomination?

Q By the consistory.

Q May they be called in any other way?

A No, sir.

Q What power has the congregation to act in church matters?

A Well, the congregation is governed by the consistory; the consistory in matters of importance will sometimes call a congregational meeting to find out the opinion, the idea or opinion of the congregation.

Q The congregation having expressed its idea or opinion in that way, does the congregation itself carry it into effect?

A The consistory.

Q The consistory carries it into effect?

A Yes, sir.

Q When does the term of office of a deacon or elder commence?

A At the ordination or installation.

Q And what power has a deacon or elder-elect between his election and his ordination?

A None whatever.

Q What is the duty of the consistory on the presentation of the objections, if any, to the installation of elders and deacons?

A Well, to find out the truth and the value of the objections that have been raised.

Q For that purpose may they delay the installation?

A Yes, sir.

Q What notice of the supposed confirmation is given, confirmation of elders and deacons?

A Generally the notice is given, must be given at two regular services.

Q What is that notice?

A It is published from the pulpit that at the last congregational meeting, the names are mentioned, have been elected as elders and deacons, and if no objections are raised against their installation they will be installed at such and such a time.

Q What is the length of time required for the calling of a congregational meeting?

A It is generally published from the pulpit twice, two Sabbaths, or two distinct services, by two distinct services I mean services not taking place on one day.

Q And what is the effect of the first step of censure?

A You mean a member of a church?

Q Yes.

A He is deprived of his right to vote and to partake of the sacraments.

Cross examination by Mr. Bradley.

Q How many churches have you had under your charge?

A Well, practically two; this is the second time that I came back to the same charge.

Q You have not had a wide experience then in the manners and customs of different churches of the Christian Reformed denomination, have you?

A The manners and customs of the Christian Reformed denomination are alike.

Q So far as you know the customs and usages in different churches as to matters within the control of each church might be different, might they not?

A Not in reference to the installation of elders and deacons and calling of congregational meetings; that is bound by a fixed rule.

Q Well, what rules fix those matters, rules of classis?

A As was stated by another witness, it is really an unwritten rule, although the publication of the names of newly elected elders and deacons before their confirmation is fixed by the form of installation.

Q Yes, but there is no written rule or any fixed rule as to the manner in which meetings shall be called, is there?

A Not a written rule, no; there is a fixed rule, fixed by custom.

Q And that is a rule which might be changed by any one particular church if it saw fit to do so by a written rule, I suppose?

A No; no, sir.

Q Why not?

A Because our customs, and we might say our unwritten rules, are fixed by Reformed principles.

Q How are they fixed by Reformed principles? Where does it say so?

A In our confession of faith.

Q Will you point it out, please? Will you point to it?

A I couldn't point it out now, I would have to look it up.

The Court. Just exactly what is it you want him to look up?

Mr. Bradley. I want him to look up the principle which decrees that the customs, the unwritten rules and customs of the Reformed church cannot be changed.

A It would make a difference what custom it was. If it is a thing of minor importance—

Q We are referring specifically now to the question of calling meetings; do you call that a thing of minor importance? Which do you call that? Would you call that of minor importance or not?

A It makes a difference what the meeting is called for.

Q Of course it does.

A We have sometimes a meeting called for a thing I might say of minor importance, and it is announced only once.

Q Where is this unwritten rule that prescribes the method of calling meetings for the purpose of considering the question of secession from a classis, for instance?

Mr. Foulds. I object. Counsel asks where the unwritten rule is. That is ridiculous.

Q The intent of that question is to ask whether that is one of minor or major importance, according to this witness's statement?

A The question of secession, whether that is a question of minor or major importance?

Q The question of giving notice of meetings?

A That is of great importance.

Q That is of great importance?

A Yes.

Q And what about the unwritten rule in regard to such a matter as that?

A According to our custom that meeting would have to be published twice from the pulpit, at distinct services.

Q Then you have had cases before when the question of secession has come up and notice has been given by two declarations from the pulpit?

The Court. Have you had?

A In my own experience? No, sir.

Q Have you ever heard of such a thing?

A No, sir.

Q Then what forms this unwritten rule if there has never been any experience to form it and never any custom in the matter, how can there be unwritten rules about giving notice of meetings to consider such a subject?

A Our principle that the consistory governs the church.

Q And that general principle, you think, covers the question of giving notice of congregational meetings?

A Yes.

Q You think that if a whole congregation of the Christian Reformed Church were of one mind and wanted to secede from a certain classis, and the consistory did not care to have them do so, that if the consistory did not give notice of a meeting of that congregation they could not secede?

A No, sir.

RALPH BOLT, sworn.

Direct examination by Mr. Foulds.

Q You are a minister of the Christian Reformed denomination?

A Yes.

Q How long have you been connected with that denomination?

A Nine and a half years.

Q Have you studied its laws and rules?

A Yes.

Q Where have you been connected with the denomination?

A Luctor, Kansas, Lucas, Michigan; at present in Paterson, New Jersey.

Q In what manner may a meeting of the congregation of a church of that denomination be called?

A By the consistory.

Q In any other manner?

A No, sir.

Q What power has the congregation, as such, without consistory?

A It has no power.

Q When does an elder or deacon of that denomination take his office?

A Right after the installation.

Q Between his election and installation has he any power to act at all?

A No, sir.

Q (*By the Court.*) Is there an ordination of deacon?

A Yes, sir.

Q (*By the Court.*) And an elder?

A Yes, sir.

Q (*By the Court.*) They must be both ordained and installed, are they not?

A We have two words for that in the American language; the same meaning is applied to ordained and installed.

Q (*By the Court.*) Oh, it is, eh; it is all one form?

A All one form, yes.

Q How long does the term of office of the predecessor of a newly elected deacon or elder continue?

A As long as he is elected, until installed.

Q Until he is installed or ordained?

A Yes.

Q When objection is interposed to the ordination of an elder or deacon to what body are those objections presented?

A Consistory.

Q And what is the consistory required to do at that time?

A Investigate those.

Q May it delay the installation for that purpose?

A If necessary, yes.

Q Where elders and deacons are elected, and before their installation refuse to serve, resign, in other words, or decline to accept the office, to whom is that declination presented, the congregation or consistory?

A Consistory.

Q Is it ever presented to the congregation?

A No, sir.

Q What does the consistory do in that case?

A Investigate.

Q When the member refuses to act, serve, what does the consistory do?

A If he refuses to serve there is nomination made and congregational meeting called to elect new ones in his place.

Q Is congregational meeting called to act upon the resignation?

A No, sir.

Q Those people accept it when such action is taken finally there in the consistory meeting?

A Yes.

Q Meeting is called to elect some one in his place?

A Yes.

Cross examination by Mr. Bradley.

Q Have you ever been in a church dispute yourself?

A Not in any church dispute as this is, no, sir.

Q You personally never had to investigate question of calling meetings, have you?

A No.

Q You are not really familiar with any rules of the law of the church on the subject, are you?

A As far as we have them, I studied them in school.

Q You studied these unwritten laws at school?

A No, sir; we studied there the written law.

Q Have you studied any written laws about calling meetings?

A No; we go as far as that is concerned by the usages and customs.

Q Unwritten rules and customs?

A Yes.

JAMES M. GHYSELS, sworn.

Direct examination by Mr. Foulds.

Q You are a minister of the Christian Reformed denomination?

A Yes.

Q And what church have you charge of?

A At present the Prospect Christian Reformed Church.

Q At Passaic?

A At Passaic, yes.

Q Have you made a study of the laws of the Christian Reformed denomination?

A Yes.

Q Have you read or put into evidence in your affidavit a book by Professor Heyns, instructor in church government of the theological seminary at Grand Rapids? What is that book?

A That is commentary upon our church regulation, church rules that we have.

Q Have you studied the laws relating to the Christian Reformed denomination?

A Yes.

Q When does a newly elected elder or deacon take his office?

A After he has been properly installed.

Q I might refer to your former affidavit on file here, in which you quote from Professor Heyns' book, and give your reasons for that answer.

A That refers to the method of installation, and there tells that the only way they may be installed is after—is that they take their office after they have been properly elected and installed, in accordance with the proper form.

Q And until their installation they have what power?

A They have no power whatever.

Q In the event that objections are interposed to the installation, ordination, what is the duty of the consistory?

A The consistory must postpone the installation until these objections have been investigated.

Q And you refer to the authorities cited in that affidavit?

A Yes.

Q Made on the 20th of March, 1912?

A Yes.

Q What authority has the congregation, distinguished from the consistory, in your churches?

A What authority have they?

Q What authority has the congregation?

A The congregation is usually called together by the consistory, in fact always, and at a congregational meeting they make decisions, vote in regard to questions, and if the vote is a majority one their wishes are executed by the consistory.

Q May the congregation execute their own acts?

A In spite of the congregation.

Q May the congregation exercise their own acts in spite of the consistory?

A Oh, the congregation may not.

Cross examination by Mr. Bradley.

Q In your affidavit made previously in this case you speak of the church manual; just what book is that? Is that this little black book that is marked Exhibit C. 6, is that the book you refer to?

A The church manual that I refer to is the Dutch version of this book.

Q (*By Mr. Foulds.*) Kerkenorde?

A Yes, that is the book to which I refer.

Q Will you tell me if those rules being on page 45 of that church manual are included in the Kerkenorde?

A No, sir, they are not.

Q You are pastor of what church now?

A Prospect street, Passaic.

Q And of what denomination is that?

A Christian Reformed.

Q And do you carry on your services in the Dutch language?

A No, sir, in the American language.

Q You don't use the Dutch-American order, do you, then?

A We don't use the Dutch version of it; we use the American version.

Q You use this little black book then?

A Yes.

Q That is commonly recognized as the church manual in the Christian Reformed Church?

A In our particular classis it is, yes.

Q You belong to the classis of Hudson?

A Of Hackensack.

Q Of Hackensack?

A Yes.

Q Both those classis are in different parts of the larger body known as the denomination of the Christian Reformed Church?

A Yes.

Q Now, you speak of the work of Professor William Heyns. Is the work of Professor Heyns considered authority in the Christian Reformed denomination particularly?

A Well, I wouldn't say it has binding authority, but his word has considerable weight.

Q As a commentator it carries great weight?

A Yes.

Q In all matters as well as the particular matters you have spoken of in regard to the installation?

A Yes.

Q Did you attend the theological seminary?

A Yes.

Q Where?

A At Grand Rapids, Michigan.

Q That is a seminary of the Christian Reformed Church?

A Yes.

Q Now, did you ever in your studies in that seminary have occasion to study Hodge on Church Polity?

A No, sir.

Q Are you familiar with that?

A Yes, I am more or less familiar with it; I never studied it.

Q You don't know whether Hodge is a commentator of the Reformed church, more particularly the Christian Reformed church?

A He is commentator on Presbyterian church law.

Q He is also commentator on the Reformed church to a certain extent?

A To a certain extent, yes.

Q And is he not considered an authority?

A His word has considerable weight in regard to Reformed church law.

Q His word has weight equal with that of Professor Heyns, hasn't it?

A No, sir, not in these particular instances to which our Dutch church order refer.

Q The particular instance of installation do you mean?

A No, any of these particular instances his word is not as strong as Professor Heyns.

Q Is Professor Heyns himself a member of the Christian Reformed Church?

A Yes.

Q Is he instructor at the theological seminary at Grand Rapids?

A Yes.

Q Now, have you or not ever had any experience with a church that was seceding from the Christian Reformed denomination?

A No, sir, I haven't had any personal experience.

Q Well, have you any experience by information, study, with a secession other than this particular, the particular secession which is the subject of this suit?

A Yes, I have heard of different secessions.

Q Well, tell me what secessions you have heard of, give me some instances?

A I can recall just at the present time the secession of 1822 when the True Reformed Dutch Church left the Dutch Reformed Church.

The Court. Recall reading about it?

A Yes; I cannot recall it personally, I wasn't there.

Q Can you inform us about any particular secession in particular congregations of the Christian Reformed denomination, of your own knowledge, or from study; what you have learned from the history of the church in your theological studies?

A I cannot recall any just at the present moment.

Q You believe there have been some, however, don't you?

A Undoubtedly.

Q It isn't an uncommon thing, is it?

A It is quite uncommon.

Q It doesn't happen every day, but at the same time it does not create a tremendous stir or excitement when it happens?

A Sufficient stir generally. I cannot recall any particular instance at present.

Q You are not at all familiar then with the means which have been adopted by seceding congregations, are you?

A No, sir.

Q The acutal steps which they took toward secession?

A No, sir.

Q Are you familiar with these unwritten laws?

A Yes, sir.

Q You have heard the testimony given by the witnesses in this case, haven't you?

A Yes.

Q You have heard them speak about these unwritten laws?

A Yes.

Q Are you familiar with them?

A Yes, these laws are undoubtedly of binding authority, even though they are unwritten.

Q They are, however, called into question only when some occasion such as secession arises, are they not? You don't ordinarily have to deal with them? Have you yourself ever had to deal with a case of this kind, where question has arisen as to sufficiency of notice given, for instance?

A We always proceeded—

Q Answer the question.

A No, sir, I haven't, in my own experience; neither has it ever been called in dispute.

Mr. Foulds. I will offer it evidence a translation of the minutes referred to by Mr. Pontier,

witness this morning, of January 4, January 7, January 8, January 9, 1912, which were filed with the affidavits in this case on March 27, 1912.

Mr. Bradley. I object to those not on the ground of the translation, but on the ground that they are not the minutes they purport to be, not so proven.

The Court. I will admit them.

Adjourned to Wednesday, May 21, at Newark, at 10 A. M.

(May 21, 1913.)

Transcript of shorthand notes of testimony taken in the above entitled cause on May 21, at Chancery Chambers, Newark, New Jersey, in the presence of the parties as before.

It is stipulated that Complainant's Exhibit C. 3 shall be proof of the facts therein stated, and that it shall be considered as proved on the trial of this cause that the said persons have respectively testified that they were members of the North Side Christian Reformed Church, of Passaic, on January 7, 1912; that they did not attend the meeting on the afternoon of January 7, 1912, or January 9, 1912, for the reason that they believed said meeting to be illegal; that they did not consent to the alleged secession of the defendant and their associates; that they have since January 7, 1912, continued a church organization associated with the complainants ~~for the~~ church of the Christian Reformed denomination, and subject in all respects to Classis of Hudson of said denomination, as they respectively believe, and other proof thereof shall not be required; but the defendants may contravert the same by competent proof.

GARRET GEENE, sworn.

Direct examination by Mr. Foulds.

Q Are you a member of the North Side Christian Reformed Church?

A No, sir.

Q Have you ever been a member of that church?

A No, sir.

Q You are acquainted with Mr. Sisco, one of the defendants in this case?

A I am, yes.

Q Did he station you in the church during January, 1912?

A Yes.

Q And in what way were you armed?

A As an officer.

Q In what way were you armed?

A What do you mean?

Q Club or revolver?

A Club, yes, certainly.

Q Revolver also?

A Yes, certainly, as an officer.

Q And what were your instructions from Mr. Sisco?

A To preserve order if there was any disturbance, that is all.

Q Did he tell you to keep the complainants out of the church?

A No, sir.

Q Didn't he tell you to keep Mr. Pontier from going into the church?

Mr. Bradley. I object. That is much too leading.

The Court. Don't lead this witness. What direction was given to him?

Q What direction was given to you?

A To preserve order if there was any disturbance.

Q What did Mr. Sisco say to you?

A That is all he said, to preserve order if there was any disturbance.

Q How long were you there in the church?

A I think I was there on four different occasions; I wouldn't be positive, but I think four.

Q There on the third Sunday in January?

A I can't tell you; I didn't take the dates.

Q The first Sunday after the trouble?

A That I don't know; I couldn't tell you.

Q There on four different Sundays?

A No, not on four different Sundays; I was there I think on two different Sundays, and I was there during the evenings twice.

Q What part of the church were you stationed in?

A In the back room.

Q Consistory room?

A Yes.

Q At the door?

A No, sir, sitting down anywhere in the room.

Q Do you remember being in the church when a number of the defendants came there—number of the complainants came there?

A When do you mean, the evening?

Q Yes.

A Yes.

Q And what did you do with reference to them?

A I didn't do anything; we stood there.

Q Did you see any of them kept out of the church?

A There was somebody kept out; I don't know who it was.

Cross examination by Mr. Bradley.

Q Do you know who it was that was kept out?

A No, sir, I do not.

Q Was there any disturbance created while you were there?

A No, there was not; there was quite a number of men come there, and the janitor stood at the entrance to the consistory, and he admitted them that

GARRET GEENE, sworn.

Direct examination by Mr. Foulds.

Q Are you a member of the North Side Christian Reformed Church?

A No, sir.

Q Have you ever been a member of that church?

A No, sir.

Q You are acquainted with Mr. Sisco, one of the defendants in this case?

A I am, yes.

Q Did he station you in the church during January, 1912?

A Yes.

Q And in what way were you armed?

A As an officer.

Q In what way were you armed?

A What do you mean?

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A Club, yes, certainly.

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A When do you mean, the evening?

Q Yes.

A Yes.

Q And what did you do with reference to them?

A I didn't do anything; we stood there.

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A There was somebody kept out; I don't know who it was.

Cross examination by Mr. Bradley.

Q Do you know who it was that was kept out?

A No, sir, I do not.

Q Was there any disturbance created while you were there?

A No, there was not; there was quite a number of men come there, and the janitor stood at the entrance to the consistory, and he admitted them that

they wanted in there, and of course they kept somebody out, I didn't know who it was at that time; of course I heard later.

Q Did you know the Rev. Westerberg?

A I did not; I do now know him.

Q Was he the one they tried to keep out?

A I couldn't tell you; I understood so.

Re-direct examination by Mr. Foulds.

Q Who is this man Rienstra you have spoken of?

A I ain't spoken of any Rienstra.

Q You are not a police officer?

A No, sir, I am constable of Passaic County.

Q And you were not sent there by the sheriff?

A No, sir; I was hired by those people.

Q They paid you personally for the time you were there?

A They did, yes.

HENRY F. VAN REKEN, sworn.

Direct examination by Mr. Foulds.

(Examined through interpreter.)

Q Were you a member of the North Side Christian Reformed Church on January 7, 1912?

A Yes.

Q Did you attend the meeting called by Bast on January 7, 1912?

A No.

Q Did you attend the meeting of members of the congregation on January 9, 1912?

A Yes.

Q Did you vote at that meeting?

A No.

Q Did you say anything at that meeting?

A Yes.

Q What did you say?

A I asked Mr. Sisco if I had understood it rightly that it had now become a free and independent congregation; he said yes.

Q Was that all that you said?

A Thereupon I said that I did not agree to that, and thereupon I sat down.

Q During what part of the meeting did this take place?

A In the beginning.

Q Were the people voting at that time?

A No.

Q What was said to bring out this statement by you?

A At that moment there was no occasion for it, but there was later.

Q Did you say anything later?

A Thereupon the voting took place, and I remained seated.

Q (Question read.)

A At quarter past nine I was about to leave the meeting and Mr. Van Ruiter asked me would it not be better—Mr. Van Ruiter asked me would it not be better that I declare myself, and thereupon I said "take my name from the book or the list."

Q Since January 7 have you remained in the North Side Christian Reformed Church?

A No, not on the side of Van den Heuvel.

Q But have you remained a member with the complainants and their associates, Mr. Hornstra's associates?

A On the side of Mr. Hornstra.

Q And have you attended services regularly during the time since January 7, 1912,—January 9, 1912?

A After the 9th I have been constantly with the North Side, the Hornstra side.

Q Down to the present time?

A Yes.

Q And have services been held by Mr. Hornstra and his associates since January 7, 1912, just as they were before that time?

A What do you mean? At times there came ministers from the classis and sometimes reading of sermons.

Q Was that the way they conducted the service before January 7, 1912?

A Yes, also.

Q Has there been any change in the method of their services since January 7, 1912?

A No.

Cross examination by Mr. Bradley.

Q Did you attend the meeting of the church on the afternoon of January 7th?

A No.

Q Didn't you sign a list of those who were willing to secede from the Classis of Hudson?

A No.

Q Well, then, what did you mean when you say you wanted to have your name taken off the list?

A Mr. John Ward told me, he came to me Sunday evening and told me that we have gone over to another classis and that I neded to sign a piece of paper, and then I thought that my name had been written over on another list, and that is why I said no Tuesday night, erase or take off my name from that list.

WILLIAM S. PONTIER, sworn.

Direct examination by Mr. Foulds.

Q Mr. Pontier, have you the book of the denomination showing the membership of the churches for this year?

A Yes, year book.

Q Will you refer to the North Side Church?

A Classis of Hudson, North Side Church is on there.

Q This book that you produce is the official publication of the Christian Reformed denomination?

A It is the year book.

Q I read from page 21 of this year book, 1913, of the Christian Reformed denomination.

Mr. Bradley. Wait; before reading from that book you better offer it in evidence, hadn't you? I object to it.

Q You are secretary and have charge of the books of the church, as you testified before?

A Yes.

Q Will you state whether your membership has increased since January 7, 1912?

A The membership has increased considerably.

Q And what is your total membership at this time, men, women and children?

Mr. Bradley. Don't refresh your recollection from that book.

The Court. No; speak from your recollection of it.

A About 330; about 330, I should say; it may differ a few, more or less, but not much. I gave the statistics for that book myself right from the church record.

Q (*By the Court.*) Is that the number that adhered to the Schilstra company, or is it the number of all the persons who claim to be members of that congregation?

A That is the number of men, women and children who adhered to the Classis of Hudson, the complainants' side. We have since January 9, 1912, received a few transfers of other churches from the same denomination who were transferred to us as the consistory, and we have accepted them.

Q You have taken in some?

A By transfer credentials.

Q Who is the defendant Reinstra?

A The defendant Reinstra is the sexton of the church; he was a member of the church prior to the time he left on January 7 or 9.

Q Do you know what was done with reference to change of locks on the church after January 7, 1912?

The Court. Didn't this witness speak on that subject when he was on the stand before?

A I don't think I did; I spoke of being locked out. I always had a key to the rear door of the church, and I went to the church door some where along January 7 or 8, I don't know the exact date, and tried my key; there was a brand new lock on the door and the key wouldn't fit.

Q Did you enter the room on January 31?

A At night, with all the members I spoke of before.

Q And at that time you saw the inside of the door?

A I did.

Q What did you see with reference to the fastening means of the door?

A There was a new lock on the door, on the inside, Yale lock.

Cross examination by Mr. Bradley.

Q When you speak of something over three hundred members of your faction now you mean men, women and children, don't you?

A That is what I said; yes. About 125 men and women, and the balance their children.

Q How many men, do you know?

A At the present time of course there has been several of these people come back to the denomination and confessed their wrong by going away.

Q How many men at the time of the secession January 9, 1912?

A Forty-eight or forty-nine; forty-eight I believe.

Re-direct examination by Mr. Foulds.

Q This paper which I hand to you is a list which you have prepared of your roll of adult male members who remained with you on January 7, 1912?

A That is the list I prepared, yes.

Mr. Foulds. I offer that in evidence.

Mr. Bradley. Subject to objection that may be made.

The Court. Subject to correction afterwards.

Mr. Bradley. Yes.

(Marked Exhibit C. 12.)

Mr. Foulds. I will offer in evidence a translation of the minutes of the church prior to January 7, 1912, from October 31, 1910, to December 27, 1911, inclusive.

(Marked Exhibit C. 13.)

Minutes of the Synod of the Christian Reformed Church for the year 1910, page 133 of the book Synod Acts, 1910, offered in evidence and marked Exhibit C. 14.

Mr. Foulds. I present a petition of the male members of the North Side Congregation to be admitted as parties complainant.

Mr. Bradley. I object.

The Court. The hearing on the petition is withheld until the final argument.

COMPLAINANTS REST.

MARTINUS J. BAST, sworn.

Direct examination by Mr. Bradley.

Q Where do you live?

A Hadley avenue, Clifton.

Q What is your business?

A Carpenter.

Q Were you a member of the North Side Christian Reformed Church prior to January, 1912?

A Yes.

Q Did you hold any office in that church?

A Yes, sir.

Q What was it?

A I was elder of the church, and I was secretary of the consistory and the congregation.

Q What time were you elected elder?
A 1911.
Q Well, were you not elected in 1910?
A In the last part of 1910, but I took place in January, 1911.
Q Were you elected secretary at the time that you became an elder?
A Yes, at the first meeting.
Q Now as secretary you kept the minutes of the meetings of the consistory?
A Yes.
Q And also minutes of the meetings of the congregation?
A Yes.
Q Who was the secretary before you?
A Mr. H. Prins.
Q One of the complainants in this cause?
A Yes.
Q And did he hand over to you a minute book?
A Yes.
Q And you thereafter kept the minutes of the meetings of the consistory?
A Yes.
Q In that minute book?
A Yes.
Q And you remained secretary how long?
A Until this time.
Q And you are still secretary?
A Still secretary.
Q And you have continued to keep the minutes of all the meetings of the congregation in the same minute book that Mr. Prins handed over to you?
A Yes.
Q Now I show you a book and ask you if that is that minute book?
A Yes.
Q And the meetings of the consistory and the congregation took place as stated in this book?

A Yes.

Q During the time that you were secretary?

A Yes.

Mr. Bradley. I offer that book in evidence.

Mr. Foulds. I object to it since January 4, 1912.

The Court. I cannot pass upon your objection without deciding the case, could I? I could not allow your objection without deciding the case. You may cross examine on the offer.

Cross examination by Mr. Foulds.

Q Where has that book been during the last six months?

A Mr. Dalrymple.

Q Your attorney?

A Yes.

Q Did you write in the minute book during that time?

A Yes, I did.

Q How often?

A I write in it until the Chancery Court says that we put it by Mr. Dalrymple.

Q And where have you kept your minutes since that time, where have you written your minutes since that time?

A In minute book.

Q In that minute book you have in your hand?

A No.

Q In another minute book?

A Yes.

Q You have not written anything in this book since the Chancery Court made that order?

A Not in this book.

Q Did you write the minutes of the meeting of January 4, 1912?

A Yes.

Q In the book now offered?

A In this book, yes.

Q How long after that meeting did you write those minutes?

A Usually I do it the next day.

Q I mean this meeting of January 4th?

A I guess the next day too, but I can't tell that now any more.

Q You can't tell?

A No.

Q Did you make notes at the meeting and then write up your minutes afterward?

A Yes; the same evening of the meeting I make notes.

Q When did you write your minutes of January 7, that was Sunday?

The Court. Are they in this book too?

Mr. Foulds. Yes, they are in that book.

A On Monday.

Q Are there any other minutes of any business meeting held on Sunday in that book except the one of January 7, 1912?

The Court. Can you answer without looking at the book, or do you want to look at the book?

Q (Question read.)

A I don't know.

Q How did you come to write the minutes of that meeting of January 7, 1912, Sunday, in that book.

A Because it is our minute book.

Q You were not secretary of the meeting on January 7, were you?

A Yes.

Q Were you secretary of the congregation?

A Yes.

Q How were you made secretary of the congregation?

A I was secretary all the time before.

Q Did you ever take minutes of a meeting of the congregation before?

A Always.

Q And put them in that book?
A Put them in that book.
Q I mean the congregation, not the consistory?
A The congregation, yes.

The Court. I will admit the book. Let it be marked.

(Marked Exhibit D. 1.)

Q You sent this notice to the Classis of Hudson on behalf of yourself and your associates, the defendants; that is a translation of it?
A Yes.

Mr. Foulds. I offer in evidence a translation of a notice dated January 8, 1912, signed J. Sylstra Sisco, President; M. J. Bast, secretary, addressed to the Classis of Hudson Christian Reformed Church.

(Marked Exhibit C. 14—A.)

Mr. Bradley. I ask you to stipulate that the translation of the minutes C. 13 is a translation of the minutes as they appear in D. 1.

Mr. Foulds. I so stipulate.

Mr. Bradley. I ask you further to stipulate that the paper which I asked to have marked D. 2 is a translation of that minute book, or what purports to be the minutes, from and including January 4, 1912.

Mr. Foulds. I so stipulate.

Mr. Bradley. And I offer this in evidence.

(Marked Exhibit D. 2.)

ARIE J. VAN DEN HEUVEL, sworn.

Direct examination by Mr. Bradley.

Q Where do you live?
A Passaic, New Jersey.
Q What is your profession?
A A minister of the Gospel.
Q What denomination?
A Of the Reformed Church at present.

Q How long have you been a minister of the Gospel?

A Since 1890.

Q In what denomination were you ordained?

A Christian Reformed.

Q And did you study for the ministry of the Christian Reformed denomination?

A I studied at the seminary of the Christian Reformed in Grand Rapids.

Q How long did you remain a minister of that denomination?

A Until January 7, 1912.

Q During the years from 1890 until 1912 what experience did you have as a minister of the Christian Reformed denomination?

A I had experience that on a good many occasions I felt guilty in church life as far as—

Q No; I want to know what churches you had committed to your care, or what other Gospel work you performed?

A My first charge was in Jamestown, Michigan, and my second in Rotterdam, Kansas; my third charge was Cleveland, Ohio, I had charge of two churches combined; then I took charge of another church at Hospers, Iowa; and after that I took charge while I have been on my litle stay for the mission field in Hospers, Iowa; that was only shortly after that I took charge of congregation at Rochester, New York, and from there I went to Passaic, New Jersey, the North Side church.

Q And when did you go to the North Side Church at Passaic, Ney Jersey?

A Fourth of August I was installed, I think that must have been in 1905.

Q It was at least seven or eight years ago, wasn't it?

A Yes, about seven years.

Q During all those years then you were in active charge of some church of the Christian Reformed denomination?

A Yes.

Q Have you ever made a study of the theology and the rules of the church government of the Christian Reformed denomination?

A I did.

Q In any other way than at the seminary at Grand Rapids?

A Yes, also by the text book of Hodge, as we did not have text book of our own on the premises.

Q Was Hodge on Church Polity considered a commentary of authority on the Christian Reformed Church at the seminary?

A Yes.

Mr. Foulds. I object.

The Court. The question is right; at this seminary.

Mr. Foulds. Except he is putting the answer right in the expert's mouth.

The Court. It is a leading question of course, but I am not very much averse to leading questions unless they touch the meat of the case.

Q Are you also familiar with the theology and rules of government of what is known as the True Reformed Dutch Church?

A Yes.

Q Will you state the doctrinal differences between the Christian Reformed Church and the True Reformed Dutch Church?

Mr. Foulds. I object to that on the ground that if they are recognized, they are admitted by both sides to be a distinct denomination.

The Court. He has a right to show the difference; that is the question.

Mr. Foulds. I submit that it is not material.

The Court. I think it is material; I admit the question.

A The difference between the two before 1890 or after?

The Court. The difference now? What is the difference now, or at the time of the events that we are investigating, say January, 1912, what was the difference then?

A There was no difference then because they were united since 1890.

Q And in fact the True Reformed and Christian Reformed were one denomination at the time of the events in question here?

A Organically one since 1890.

Q Now since January, 1912, you have been associated with the Reformed Church, still a third denomination, have you not?

A Yes.

Q And have you made yourself familiar at any time with the doctrines and rules of the church government of that church, of that denomination?

A Yes, sir.

Q Well now state what difference there is between the Reformed Church and the Christian Reformed Church both in matters of doctrine and in matters of government?

The Court. What the difference was in January, 1912.

Q January, 1912?

A Practically there is no difference in doctrine, as they both adhere to the three forms of unity, which is the confession contains the Heidelberg catechism, confession of faith and articles of Dort, three forms of unity, and both denominations adhere to them in doctrine.

Q The Reformed Church equally bases its doctrine on the Synod of Dort with the Christian Reformed Church, does it not?

A Yes.

The Court. I understand the portion of this book that was put in was the rules of church government established by the Synod of Dort in 1618 and 1619.

Mr. Bradley. From pages 3 to 24 was what was put in by the complainants.

Q Now I show you a book marked Exhibit C. 6, between pages 3 and 24, containing certain rules of church government, established by the Synod of Dort, at a point on page 45 of that book; I show you further rules of church government which it is stated in the note are rules established in the Synod of Dort 1618 and 1619, which extend to page 86, and I ask you to tell me what those rules are, pages 45 to 86.

Mr. Foulds. I object to the form of that question upon the ground that the note does not state what the counsel has implied.

The Court. It is immaterial. The question is as to the identification of the matter he calls his attention to.

A Those rules of the church government were of the True Protestant Dutch Reformed, I think it was called, they have so many changes of names, in which this church, Christian Reformed Church, united with in 1890, and these rules are of that church, which is united, or which the Christian Reformed united with, and consequently by that union of 1890, as has been specifically stated in the Report which was passed upon in 1890, makes those rules also the rules of the Christian Reformed denomination since the Union.

Q And as such they were enforced in January, 1912?

A Oh, yes, certainly, they never have been changed, on account of synod after synod reference has been made to this government, and, in fact, 1912, this last year, reference has been made to it.

Mr. Bradley. Now I offer in evidence pages 45 to 86, inclusive, of exhibit C. 6.

(Marked Exhibit D. 3.)

Q Now outside of the Synod of Dort and the rules for church government which you have just been speaking of, what rules were there governing the affairs of the Christian Reformed Churches in 1912, excepting always the statutes of New Jersey?

A The Synod of Dort, with explanatory notes as they are in the Holland Manual, and this very same church organic union was accomplished too in 1890, practically the two, one is Holland and the other is English.

Q Now at the time the union was accomplished in 1890 certain action was taken at the synod at which the union was agreed upon, was it not?

A Yes.

Q Respecting the future government of the church?

A Yes.

Q Now have you that action with you?

A I haven't got it here with me, but it is somewheres among the papers.

Q Now the North Side Christian Reformed Church, of which you became pastor in 1905 or 1906, belonged to what denomination?

A The Christian Reformed.

Q And was subject to the authority of the classis of that church?

A Well, as much as the classis has any authority in its own way, according to Dort, yes.

Q What rules are prescribed in the Christian Reformed Church for the calling of meetings of the consistory or of the congregation?

A There is no rules on the premises in the Christian Reformed Church Manual.

Cross examination by Mr. Foulds.

Q You have said that there is no rule in the church manual for calling meetings of the consistory?

A Yes.

Q How are those meetings called?

The Court. You mean how are they legally called?

Q As an actual fact, as a fact, how do you call them?

A Usually they were called by the consistory, that was the custom.

Q Did you ever hear of them ever being called in any other way?

A Yes, I have had members of the congregation express themselves a desire for a meeting, and they called them together.

Q Who did the members of the congregation express that desire to?

A Expressed it to me personally, or sometimes to the secretary.

Q And then the meeting was in such a case called by whom?

A Either by me or by the secretary.

Q (*By the Court.*) Without the intervention of the consistory?

A Yes.

Q You occupied what position at that time with reference to the consistory?

A What do you mean?

Q I mean you were president of the consistory, weren't you, by reason of your office?

A A minister always is president of the consistory.

Q And as president of the consistory you call a meeting?

A Or the secretary.

Q As secretary of the consistory?

A Yes.

Q When have meetings been called in that way?

A I am now quoting from recollections in the past; I can't say when it was.

Q Do you remember any particular congregation where that practice was followed?

A Different occasions in different churches; I can't recollect now just where it was.

Q You do not remember now any other occasion where it was called other than by the consistory?

A Yes, I recollect one occasion in Cleveland.

Q When?

A When I was in Cleveland; that has been—that is in the neighborhood of 1888 and 1889.

Q Who was the meeting called by at that time?

A As I say, by the secretary or by me.

Q Well, which was it called by?

A I called one at another occasion—that is pretty hard to quote though from recollection yet, it is so many years ago; I won't state for positive.

Q Then the only meeting of the congregation that you remember having been called other than by the consistory is this one occasion when you called a meeting in Cleveland?

A I remember calling that myself, I remember also the secretary, but to state what time that was, that is pretty hard to remember.

Q About what year was that?

A As I said, it was in the neighborhood of those years I was in Cleveland; I can't say exactly what year.

The Court. He said 1888 or 1889.

A Somewheres in that neighborhood.

Q Well, other than those two occasions you speak of in 1888 or 1889 you don't recall any congregational meeting having been called by the consistory in the Christian Reformed denomination?

A Don't recall at present.

Q What business was transacted at these meetings that you say were called by you or the secretary in 1888 or 1889?

A That I don't know any more.

Q (*By the Court.*) Were they business meetings or devotional meetings?

A They were mostly business meetings, of that nature.

Q Meetings of what nature? Do you recall anything about what was transacted?

A No, I couldn't say that, I don't recall.

Q On those occasions when you say there was a meeting of the congregation called in 1888 or 1889 was any action taken by the congregation which became effectual without the consistory acting?

A Well, some of these matters are only by the congregation, and the consistory leaves it entirely to the congregation; for instance, when it concerns money matters, property matters, such things, the congregation is practically the first one to talk.

Q You mean the consistory refers the matter to the congregation, do you?

A Yes, some times.

Q But if they do not refer the matter to the congregation the congregation does not act?

A Even then it acts.

Q When does that happen?

A That happens different times, the congregation brought up matters; I recall especially Rotterdam, Kansas, at present, where expressions were to be made for the church, and one of the congregation, he presented it, and the congregation acted on the premises without having any consistory action in it at all. The congregation acts on their own matters, does their own matters, their own business, as long as the consistory is not called to step in for the purpose.

Q When was this action in Rotterdam, Kansas?

A That was during the first years I was there, that must have been.

Q (*By the Court.*) Twelve or thirteen years ago then?

A Yes, about that, more than that.

Q Was there any trouble in that congregation at that time?

A I don't know of any trouble.

The Court. We cannot go into controversies that took place. The question is: What are the customs in this church with relation to calling meetings.

Q Were you punished by any of the classis of the Christian Reformed denomination prior to this occasion of the North Side?

A Well, that depends on what you call punishing.

Q (*By the Court.*) Well, were you censured?

A No, I was not.

Q Did the classis take any adverse action in your case?

A They tok an adverse action to my wishes.

Q The word "censure" you consider a technical term meaning a certain form of church discipline, do you not?

A Yes.

Q And you mean that particular form of church discipline was not applied?

A No, sir.

Q But what did classis do in your case, classis in Iowa?

A Where? You mean in Iowa?

Q Hospers?

A Where I was referring to, to make it a little bit clear to your own mind, was Rotterdam, Kansas, which was before I went to Cleveland, and I was in Cleveland before I was in Hospers, so the point I was referring to was Rotterdam, Kansas, which is before the incident at Hospers.

Q What was that incident at Hospers you speak of?

A That incident at Hospers, a strong agitation was caused by some of the consistory, men in the congregation, against me, especially against my preaching, and classis finally called a special meeting and took care of those matters and came out with a verdict for those which had charged me, and the verdict was they ought to make public confession or else they could not serve in their office, and they came out, as far as the pastor was concerned, that the pastor was not guilty on the charge which had been preferred, but in the conditions—that the congregation was in such condition that the minister could not be working to placing that congregation in this way, as the copy which I have got yet reads, and therefore I was ordered to preach the farewell two weeks after that and the congregation was to pay my salary for four months more, and I was to take charge of the mission field for the Classis of Hackensack, at the same time announcing to the churches that I was in good standing and no claims against me whatever.

The Court. There isn't a word in all that answer that throws any light on this case.

Q Did you attempt to call a meeting of the congregation at that time?

A No, sir, never did.

Re-direct examination.

Q What members of the congregation of the Christian Reformed Church are permitted to vote?

A What members?

Q Yes.

A Members in good standing, not censured.

Q (*By the Court.*) Men, women and children?

A No, only men, your honor.

Q Are they permitted to vote by proxy?

A Oh, yes.

Q Are you continuing now as minister of the congregation which was formerly of the North Side Church?

A I am.

The Court. That is alleged by the bill and admitted by the answers.

Re-cross examination by Mr. Foulds.

Q You say that male members only in good standing are entitled to vote. In the case of the organization of a new denomination the female members also petition, do they not?

The Court. New denomination?

Q New church, new denomination, new congregation?

A They do in some churches in Classis of Hackensack, but it is not the custom in the Holland church.

Re-direct examination by Mr. Bradley.

Q In January, 1912, at the time of this controversy, and at the time that the meetings of January 7 and 9 were called you were on leave of absence, were you not?

A I was.

Re-cross examination by Mr. Foulds.

Q That leave of absence was what?

A That was a forcible vacation you might say, decided by the Classis of Hudson, I was to take.

Q You were ordered to withhold yourself from more work in that congregation?

A Yes.

Q That was the leave of absence you speak of?

A Yes.

Q And that constituted disability on your part to officiate in that congregation, didn't it?

A I will never say that, on account of disability; I think it was on account of—

The Court. You don't understand. Read the question.

Q (Question read.)

A It constituted, yes.

Q (*By the Court.*) Disabled you from ministering to the congregation?

A Yes.

Q And you have been since expelled from that denomination?

A I was notified; I can't say I was expelled, but I was notified.

JACOB POPPEN, sworn.

Direct examination by Mr. Bradley.

Q Where do you live?

A Athenia, New Jersey.

Q What is your profession?

A Clergyman.

Q What denomination?

A The Reformed Church in America.

Q How long have you been a minister of that denomination?

A Since December 17, 1894.

Q Where did you study for the ministry?

A One year at Grand Rapids, two years at Princeton.

Q At Grand Rapids, did you study in the seminary of the Christian Reformed Church?

A Yes.

Q And at Princeton you studied in the Princeton Theological Seminary?

A Yes.

Q Are you familiar with the doctrines of both Christian Reformed, the True Reformed, and the Reformed Church?

A Yes.

Q What has been your experience, professional experience since 1894?

A Why, you mean my record as a minister.

Q Yes; where have you ministered?

A Until July of 1895, I was pastor of the Second Reformed Church of Jamestown, Michigan; I was then called to the chair of old testament theology at Tokio, Japan.

Q And thereafter?

A My health failing, I was repatriated to America, and took a charge, first of December, 1899, in Bentheim, Michigan; in 1902 accepted a call to the Reformed Church in Wortendyke, New Jersey; in 1908 I was appointed principal of Cordell Academy, Cordell, Oklahoma; and in July, 1910, I assumed charge of my present charge, Athenia, New Jersey.

Q Do you consider yourself a minister of the Reformed Church?

A Yes.

Q Although you studied for the Christian Reformed Church, did you not?

A Yes.

Q Were you ever ordained in the Christian Reformed Church?

A No, sir.

Q You were ordained in the Reformed Church after studying in a Christian Reformed seminary?

A Yes.

Q What doctrinal differences are there between the Reformed Church and Christian Reformed Church?

Q Are there any differences of church government?

A Not essentially, that I know of.

Q Do you ever preach in Christian Reformed Churches?

A I have.

Q Are the ministers of one denomination acceptable as preachers in churches of the other denomination?

A There are interchanges of pulpits, yes.

Q And what is the basis of the doctrine and government of both the Reformed Church and the Christian Reformed Church?

A Why, the Synod of Dort.

Q Now, are you familiar with the union of the True Reformed Church and the Christian Reformed Church in 1890?

A I have read the records.

Q Now, I show you Exhibit C. 6, pages 3 to 24, and ask you if that constitutes the doctrine and theology—the confession of faith of the Reformed Church?

A This is not the confession of faith.

Q (*By the Court.*) It is rules of church government?

A Yes, sir.

Q Now, as a matter of faith the Reformed Church is based upon the Heidelberg catechism, isn't it?

A It is one of the forms of unity.

Q There are three forms of unity, are there not?

A Yes.

Q One is Heidelberg catechism, and Synod of Dort, and what is the other?

A The canons of Dort, the Belgic confession.

Q Now, the Christian Reformed Church bases its doctrine of theology upon the same three units, does it not?

A It does.

Q Then in all matters of doctrine, as well as church government, the Christian Reformed Church at the present time, and a year ago, and the Reformed Church, are alike, are they not? If there is any point of difference state what it is.

A Well, it seems that the Christian Reformed Church has a tendency to add legislation to the Synod of Dort, though I don't think it has been adopted yet; there has a committee been appointed by Synod and continued from time to time, and is still—no ac-

tion has been taken, no decisive action—on the proposed revision.

Q Has there been any effort made to bring the Christian Reformed Church into the Reformed Church?

The Court. Why do you ask that question? How does that illuminate this case at all?

A Why, yes, there is a continual agitation and attempting to consolidate.

Q Now, are you familiar, sufficiently familiar with the customs of the Christian Reformed Church to state what those customs are, independent of written rules?

The Court. Customs relating to what?

Q Relating to the government of the church?

A Why, I think so.

Cross examination by Mr. Foulds.

Q Why did you change from the Christian Reformed denomination to the Reformed, Doctor?

A At what time?

Q Did you change more than once?

A Did I exchange my membership from one denomination to another?

Q Were you in the Christian Reformed denomination at one time?

A Yes.

Q Are you now in the Reformed denomination?

A Yes.

Q When did you change from the Christian Reformed denomination to the Reformed denomination?

A In 1894, early, about the middle of December.

Q Up to that time you were a member of the Christian Reformed Church, were you?

A Yes.

Q Why did you change?

A Because I got a call from the Second Reformed Church, and accepted that call, Second Church of Jamestown.

Q That was the only reason for your change?

A Yes.

Q Did you receive a call from the Christian Reformed Church?

A No.

Q From the Reformed Church?

A From the Reformed Church.

Q Your change from one denomination did not have anything to do with the form of doctrine?

A No.

Q Church government?

A No.

Q You say that you have preached in the churches of the Christian Reformed denomination?

A Yes.

Q Have you done that since 1894?

A Yes.

Q How frequently?

A Well, I preached in Sioux Center in the Christian Reformed Church—that was in the year, the summer after I was ordained in the Reformed Church.

Q But not since that time?

A Yes; and two or three years later I preached in that church in the forenoon, and I was to preach for dominie DePray in the afternoon in the Reformed Church, and the Christian Reformed congregation at Sioux Center omitted service so as to worship together in the afternoon with the Reformed; and later, when I was at Bentheim, between 1899 and 1902, I preached for dominie Van Gore, 9th street, Holland, Michigan.

Q You have also exchanged pulpits with pastors of other denominations entirely separate, haven't you?

A No, I can't think of any.

Q You have taken part in union services between other denominations?

A Yes.

Q And preached for other denominations in other churches, haven't you, at union services?

A Yes.

Q Many other denominations?

A Well, not many; in Albany I preached in the united Presbyterian on one occasion when I was delegate to the Synod, and I preached in a Minonite church, and in the Presbyterian Church in Ridgewood.

JOHN Z. SISCO, sworn.

Direct examination by Mr. Bradley.

Q Are you known by any other name?

A Than what?

Q Than Sisco?

A I am known also by Zylstra.

Q How do you spell that?

A Zylstra.

Q Where do you live?

A Athenia, New Jersey.

Q Are you one of the defendants in this case?

A I am.

Q Are you a member of the North Side Christian Reformed Church?

A I am.

Q When did you become a member of that church?

A When it was organized.

Q When was that?

A As well as I remember it was in 1905.

Q Now, have you held any office in the North Side Church?

A I have; I was elected deacon at the time of its incorporation.

Q And have you held any office since?

A I have; I have since held the office of elder.

Q When were you elected elder?

A Almost two years after the incorporation.

Q About 1907?

A Yes.

New Jersey State Library

Q And have you remained an elder from that time to the present? Are you still an elder of the church?

A Yes.

Q And were you an elder in January, 1912?

A Yes.

Q (*By the Court.*) A year ago last January?

A Yes.

Q Did you attend the meeting of the North Side Church congregation on January 7, 1912?

A I did.

Q Who called that meeting?

A The secretary of the consistory.

Q Who was that at that time?

A M. J. Bast.

Q At whose direction did you call it?

Mr. Foulds. I object to that unless the witness knows of his own knowledge.

Q Do you know?

A Yes, sir.

The Court. You may answer.

A John Groenhoff.

Q And who is John Groenhoff in the church, what was his position?

A He was elder and vice president of the consistory.

Q At that time?

A At that time.

Q Did you attend the meeting of January 9th?

A I did.

Q At those meetings who presided?

A I was chosen by the congregation as president of that meeting.

Q Do you know who called the meeting of January 9?

A It was called by nine members in connection with the consistory.

Q And was Groenhoff one of those members?

A Of the consistory do you mean?

Q No, one of those nine members who called the meeting of January 9?

A I don't remember.

Q Have you continued your church organization from January 7, 1912, down to the present day?

A Yes.

Q And who was acting as your minister?

A The same minister that acted before January, the Rev. A. J. Van den Heuvel.

Q Who was acting as consistory?

The Court. Now?

Q From January, 1912, to the present time?

A Myself, M. J. Bast, John Groenhoff and Frank DeRuiter.

Q And who as deacons?

A The acting deacons were Martinus Haakmeester and John Vander Plaat, that is all the acting elders.

Q What do you mean by the acting elders?

A Or deacons I should say, there was elected Sieve Roosma, he was elected deacon and continued to be deacon until perhaps, I don't remember just how long, two or three months after January 7, and since that time has not acted.

Q Were you present at a meting of the consistory on January 4, 1912?

A No, sir.

Q You were a member of the consistory at that time, weren't you, January 4, 1912?

The Court. Well, were you a member of the consistory at that time?

A I was member of the consistory, but I don't remember that there was a meeting January 4, 1912; oh, yes; yes, I was.

Q You were present?

A Yes. Wait, now, let me think; I want to be sure before I go any further. No, sir, I was not at the meeting.

Q Now, at the meeting of January 7, at which you were acting president, what occurred?

A The congregation severed its connection from the Classis of Hudson and installed its newly elected elders and deacons.

Q And who were they?

A They were myself, DeRuiter, Roosma, Haakmeester and Gerlof DeRoos, I think that was all—five.

Q What action was taken at that meeting with respect to calling a general meeting of the congregation on January 9, any?

A Yes; it was decided by the congregation that another meeting be held to give opportunity to those that were not present to vote in favor or oppose the action.

Q And the congregation instructed notices to be sent?

Mr. Foulds. I object.

The Court. How did they express themselves, and what did they do?

Mr. Foulds. This is all in the minutes, translation of which is in evidence.

The Court. I know, but these are the disputed minutes.

Mr. Foulds. They are trying to contradict their own minutes.

The Court. I don't understand it that way. How did the congregation express themselves, and what did they do?

A The question was raised if any further action in regard to the action that had taken place that day, if any opportunity would be given to any members that were not present there that day to vote in favor or to oppose the action after January 7, and—

Q (*By the Court.*) Well, did they vote on that question?

A They voted on it, but I don't remember whether they voted on that separately from other things that might have been included with it; I think that the minutes to that effect would be the most plainest, and the best proof.

Q (*By the Court.*) But you are asked for your recollection of it. Well, what else was done by the congregation at that meeting?

A I think that was all.

Q (*By the Court.*) Then did they vote on the question of having another meting?

A Yes.

Q (*By the Court.*) How was the vote taken?

A I aint sure whether that was a motion separately or whether it was connected with some other, connected with secession itself; that I don't remember.

Q (*By the Court.*) Were there any votes taken there on that occasion?

A Yes.

Q (*By the Court.*) Do you remember what they voted about?

A I know that the votes taken were unanimous.

Q (*By the Court.*) What were they about?

A They were about the withdrawing from the Classis of Hudson, installing their elders and deacons, and opportunity to vote in favor or to oppose the action thereafter.

Q (*By the Court.*) How was the vote taken?

A I think that they all,—I remember in regards to the secession the members all gave their names, and the secretary of that meeting wrote them down as they announced them.

Q (*By the Court.*) And they gave their vote as they announced their names?

A Yes, sir.

Q (*By the Court.*) How were the other votes taken?

A I don't remember whether there was more than one or two votes taken, I think there was two, but I am not sure; I think the minutes are the best proof.

Q (*By the Court.*) What was the result of the action, result of the voting?

A The result of the voting was that the congregation decided to withdraw from classis, and called the Rev. A. J. Van den Heuvel, their own minister, to install their newly elected elders and deacons.

Q (*By the Court.*) And what was the majority one way or the other?

A If I remember, there was forty-six in favor of the action and two opposed, and one, I believe, refused to vote.

Q Who was acting as secretary of this meeting?

A M. J. Bast.

Q And was he the duly constituted secretary of the church at that time?

A He was.

Q At the meeting of January 9th will you say what took place, from your own recollection, with respect to the putting of questions and of taking votes on them?

A As well as I remember it was the action that had been taken January 7th was read to the congregation, and I think there were a few more present that night than there was on January 7th, and they all, as far as I can remember, agreed, I think, a standing vote was taken, and I believe they all agreed with the action of January 7th; I don't believe, I don't hardly think there was any opposed to the action; yes, there was one, there was one, I remember now that there was a man that went out and said that he did not agree with the action, and went out.

Q Did you see Mr. Hornstra or Mr. Prins at that meeting?

A Yes.

Q How long were they there?

A I should judge about twenty minutes.

Q Were they there while the vote was being taken?

A Yes.

Q What did they do?

A They were handing out some papers.

Q Did they say anything?

A No, not that I know of.

Q Who presided at that meeting?

A I did.

Q By vote of the congregation?

A Yes.

Q Who acted as secretary of that meeting?

A M. J. Bast.

Q Any other action taken at that meeting besides ratifying the action of January 7th?

A Not that I remember.

Q Thereafter what did the North Side Church, represented by you and your consistory and your minister, Dr. Van den Heuvel, do with respect to the Classis of Paramus?

A The consistory called a meeting of the congregation and raised to them the question which would be best, according to the opinion of the congregation, to remain as an independent unit, as it had placed itself after serving its connection with the Classis of Hudson, or connect itself with some other church denomination, and the congregation decided to connect itself with the Reformed church.

Q (*By the Court.*) How did it so decide?

A By also again signing their names to a list which was sent, or I think the secretary signed the names as they announced them to him, and I think that list was sent to the Classis of Paramus.

Q (*By the Court.*) Was there a vote taken on it?

A Yes, they voted by giving their names for that purpose.

Q (*By the Court.*) What was the vote, how did it count up?

A I think it was a list where all the names are on.

Q (*By the Court.*) Don't you remember?

A I don't remember how many were on it, I do think it was something like fifty-five, but I am not sure.

Q (*By the Court.*) Were the votes all one way, was there any opposition to it?

A Not that I remember.

Q Now, in respect to the notice which was served upon members for the meeting of January 9th, did you serve any of those notices?

A No, sir.

Q Do you know who directed them to be made out and served, who ordered the notices to be served?

A The consistory.

Q At what time?

A I think January 8th.

Q Directly after the congregation had voted to hold such a meeting?

A Yes.

Q Why did the consistory have the notices signed by members of the church instead of by themselves?

A Well, there was members who were opposed to the newly elected and installed consistory, and they had not attended the meeting of January 7th, and where they were opposed to the newly elected consistory they thought it may have some effect by calling a meeting through members, and for that reason called it by members, so that the most means may be brought in effect to get all members present that belonged to the church.

Q Then your purpose in not sending out the notices yourselves as members of the consistory was to give as fair an opportunity as possible to get them altogether?

The Court. That is a leading question, and he has already answered it.

Q Now after January 7th, and your installation, how many meetings of the consistory did you have before you were disturbed in any way, or had any court order served upon you?

A I don't remember how many consistory meetings we had; I think we held a meeting shortly after that, but I don't recollect just what time, what day it was.

Q Well, you continued with the Sunday services and with consistory meetings for a number of weeks?

A Yes.

Q After January 7th?

A Yes.

Cross examination by Mr. Foulds.

Q Between January 9th and the order of the Court of Chancery permitting you to go back into the church in how many places did your faction hold their services?

A I don't know as we held any services any where only in the church.

Q Didn't you hold services in the Reformed church in Clifton?

A We did one Sunday, but when that was I don't remember, what date.

Q That was during this period, wasn't it?

A Which period?

Q Between January 9th and the time when you went back into the North Side Church, holding alternate services with the complainant?

A Yes, it was during that time.

Q And didn't you also hold one time in the Episcopal chapel?

A We held a good many services there.

Q Then what did you mean when you said you did not hold services anywhere except in theNorth Side Church?

Q You said during the period up to the time we received an order from the court.

Q I meant—

The Court. Don't quarrel about that.

Q The fact is that during that interval, before you started in to hold the alternate services at the church, you met part of the time in the chapel in Clifton, and another part of the time in this chapel on Autumn street?

A No, I don't think we did, not until the time was divided by us and the complainants, I don't think we held any services in the chapel, I don't remember.

Q You don't remember when you started to hold your services there?

A I don't think we held any services in the chapel before that time.

Q Then you have been holding your services since that time in the chapel on Autumn street, have you?

A When we are not in our own church.

Q And where else do you hold services?

A Nowhere else.

Q And where do you hold your consistory meetings?

A Sometimes in the parsonage of the church and sometimes in the church edifice itself.

Q Before January 7th, 1912, on what days of the week did the consistory meet?

A Oh, at different dates; it has no regular set date when it meets.

Q What called them together?

A What business do you mean?

The Court. Who?

Q In what way were they called together?

A The president called them together, or sometimes there is no calling together, the consistory when they are present before the service determine whether they shall have a meeting of consistory, yes or no, and if there is things, business matters for the consistory

to meet for, why, they just agree right there, and it is announced by the congregation that such a meeting shall be held.

Q And when your faction held services in the chapel in Clifton your consistory held its meeting there, did it?

A No.

Q Consistory didn't hold any meeting at that time?

The Court. Is this material?

A That was a congregational meeting.

Mr. Foulds. I want to show the congregation had no organization, no head, while the complainants continued their services regularly in every respect under the denomination, and the defendants were a roving congregation until they were finally taken in by the Reformed denomination.

The Court. I don't think you will get very far with that, Mr. Foulds. I don't see how this testimony about whether they have meetings or not, whether they have meetings for the congregation or not, whether they have meetings for the consistory or not, whether they held devotional meetings or not during that period is important in this case. I don't think it is.

Q You haven't a very clear recollection of what took place on January 7th, have you?

A I have quite a clear recollection of what took place, but just under what particular, that is how it was worked to an end I don't remember exactly; I know the votes that took place.

Q Do you remember testifying in the case of Hornstra and others *vs.* Bast and others in the Supreme Court with reference to this meeting? "Do you remember whether you took more than one vote?" "A I don't think there was more than one vote taken."

The Court. What is your question?

Q Do you remember so testifying?

A I remember, but I think there was more added to that; I think I also referred to the minutes at that time, and I would rather refer to the minutes now too, because I ain't sure whether it was more than one vote taken or two votes, I ain't sure.

The Court. You are only giving your best recollection about it.

Q You remember testifying as I have read to you here. Do you remember testifying as I have read to you here?

A What was the words, please?

Q The question asked you was "Do you remember whether you took more than one vote?"

A I don't think there was more than one vote taken.

The Court. Do you remember saying that?

A I guess I have said that in my testimony.

Q Do you remember also being asked: "Will you please repeat it now as you recall having put it at that time, referring to the question voted on? A That the congregation decide whether or not their newly elected elders and deacons should on that day be installed as was announced, yes or no, and, if so, then how." Do you remember that?

A I remember that.

Q You say Mr. Hornstra and Mr. Prins came to the meeting on January 9?

A Yes.

Q Did they serve you with a paper at that time?

A They did.

Q And that was a paper protesting against this action, wasn't it?

A I don't think that was explained in the paper; I never read it in it.

Q Did not read the paper?

A Yes, I read the paper.

Q Did you understand that Mr. Hornstra and Mr. Prins were taking part in that meeting?

A Did I understand that? I understand that they was not.

Q You so understood at that time; you didn't think they were consenting to the meeting by coming there?

A I knew it by their actions.

Q That they were not.

A That they were not.

Q You say that the consistory had something to do with calling this meeting of January 9th?

A Yes, sir.

Q Before the notices calling that meeting of January 9 had been sent out did the consistory hold any meeting with reference to it?

A Only as far as it was connected with the meeting of January 7, where it was decided by the congregation to hold a meeting, and of course the consistory did not once more take any action in regards to calling that meeting, just merely followed up the actions of the congregation to call that meeting.

Q The meeting on January 7 adjourned without any day being set, didn't it?

A Yes.

Q And between the serving of those notices calling the meeting for January 9 and the adjournment of that meeting January 7, in that time between Sunday afternoon and Monday afternoon was there any meeting of the consistory?

A I don't think there was a regular meeting. There was a meeting on, I think on January 8, in the evening, on Monday, after the notices had been served—

Q (*By the Court.*) Were you there?

A Yes, sir.

Q That was after the notices had been served, wasn't it?

A Yes, I believe it was.

Q The notices were served on Monday for the meeting to be held on Tuesday, isn't that correct?

A Tuesday night, Tuesday evening.

Q Yes. Then the consistory, your consistory did not have anything to do as a body with sending out these notices for that meeting of January 9?

A As a body in general I don't think they did; the consistory members did work onto it.

Q And the members of the consistory intentionally left their names off that notice. didn't they?

A No, I don't think they did, not that I know of.

Q Why didn't any member of the consistory put its name on that notice?

A Mostly because they knew there were a few members in the congregation opposed to that.

Q And what did they think the result would be if their names were not on the notice?

A They were afraid they wouldn't come.

The Court. This witness don't know anything about that.

Q Did you even know of a meeting being called in your church by the members of the congregation?

A No, only that meeting, that is all.

Q Did you ever give the complainants a chance to join with you in entering the Classis of Paramus?

A Oh, yes, plenty.

Q How?

A Leaving open to them all the meetings we held, and announcing from the pulpit meetings we held.

Q The meetings you held in the Clifton chapel and up in the Autumn street chapel?

A There wasn't anything done there in regard to connecting with the Paramus Classis, it was just merely a Sunday service was held there.

Q Do you recognize the complainants as members of your church?

The Court. No; that won't do. That isn't a proper question; whether they are or not is a question of law, isn't it?

Mr. Foulds. I want their attitude toward them; I want to find out what they have done about it.

The Court. Find out what they have done in the way of recognition or repudiation.

Q What have your faction done with reference to recognition or reputiation of the complainants and their associates?

A I don't know as they have done anything since the court has had this thing in its determination.

Q What did Mr. Bast say when he called this meeting on January 7?

The Court. At the time he arose in the congregation at the meeting and announced the meeting of the congregation?

A I don't know if I can repeat the words exactly; I know that he said that there would be a meeting after the afternoon service, and there was more attached to it, but I don't know as I can repeat that exactly.

Mr. Bradley. I think we can dispense with further oral testimony by agreeing to a stipulation, testimony of a good many witnesses.

It is stipulated by counsel on both sides that the paper marked Exhibit D. 4 is a list of male members of the North Side Christian Reformed Church of Passaic on January 7, 1912, and states accurately the service and manner of service upon such members of the notice of the meeting of January 9, in the form that the same has been read into the record in translation; that Frank De Beer mentioned in such list was on the first step of church discipline on January 7, 1912; that the defendants in this cause appearing on this list as not having been actually served had

in fact actual notice of the meeting of January 9, and that the said notice was served in the manner indicated on the day preceding the meeting, to wit, January 8.

Mr. Bradley. I also offer in evidence church roll of the North Side Christian Reformed Church. I offer that, excepting such entries as appear there subsequent to January 7, 1912.

10

DEFENDANTS REST.

NICHOLAS HORNSTRA, recalled in rebuttal.

Direct examination by Mr. Foulds.

It is stipulated that the purpose of Mr. Hornstra and Mr. Prins in attending the meeting of January 9, 1912, was to serve the notices which they did serve on that occasion.

20 Q Why did you go to the meeting of January 9, 1912, the meeting held in the North Side Church, why did you and Mr. Prins go there?

A We went there to serve notices on the members, to fourteen of them.

Q (*By the Court.*) To what effect? Isn't that all in?

A To notify them of the censure, protesting against what they had done and what they were doing.

30 ALL REST.

40

Continuation of examination, pursuant to adjournment, on June 18, 1913, at the place and in the presence of the parties as before.

GEORGE H. DALRYMPLE, sworn.

Direct examination by Mr. Bradley.

Q What is your profession?

A Attorney at law.

Q In January, 1912, were you employed by the defendants in this case?

A Yes.

Q Did you attend a meeting of the congregation of the North Side Church, on January 9, 1912?

A Yes.

Mr. Foulds. I object to that; this was not a meeting of the congregation.

Q (*By the Court.*) You attended a meeting at the church?

A Yes, sir.

A At the North Side church?

A Yes, sir.

Q Who presided at that meeting?

A Mr. Sisco.

Q Did you know what the meeting purported to be?

A Yes; I had prepared the call for the meeting.

Q That is the notice which has been put in evidence in this case and marked. That was the notice, translation of which was read into the record in this case, page 94, which I now show you?

A Yes.

Q Did you count the number of persons present at that meeting?

A Yes, in conjunction with Rev. Van den Heuvel.

Q And how many persons were present?

Mr. Foulds. I object to that.

A Fifty-five.

Mr. Foulds. I object, unless it appears that these persons were members of the church.

The Court. I think the question so far is proper.

Q How many persons?

A Fifty-five; I counted them three times, and checked up by the Rev. Van den Heuvel; we were sitting side by side.

Q And were they all men?

A Yes.

Q Would you know if they were all members of the North Side church?

A Well, only from what the Rev. Van den Heuvel told me at the time.

Q You don't know of your own knowledge?

A No, only what he told me.

(No cross examination.)

DR. ARIE J. VAN den HEUVEL, recalled.

Direct examination by Mr. Bradley.

Q Did you attend a meeting in the North Side church at eight o'clock on the evening of January 9, 1912?

A I did.

Q Did you count the persons present?

A We counted them jointly, that is Mr. Darymple counted them and asked me if those were all members of the church; I told him they were.

Q Did you look at all the persons present at that meeting?

A Yes, sir.

Q And were each of the persons members of the North Side church?

A Yes, those that had been counted there; there was way in the rear of the church, there might have been some persons sitting, but we didn't count them.

Q And those whom you did count amounted to how many?

A Fifty-five.

Q At the time of this meeting were any members of the North Side church of the ninety-eight male members not in good standing and entitled to vote?

A Not of those present; there were a good many of them that were not in good standing.

Q I don't mean of those fifty-five, but of the whole ninety-eight members were there many not in good standing at that time?

A Oh, certainly.

Q How many?

A I haven't got that memorandum with me, but as much as I can call from memory there were under censure , discipline, I think there was ten, the record will show, disabled by non-contributing, withdrawing from congregation, by giving up their pews and not contributing any more.

Cross examination by Mr. Foulds.

Q Did you count the persons present at that meeting?

A Just as I said a while ago, we counted together.

Q Did you count?

A I counted as much as Darymple counted.

Q Did you testify as follows in the case of Schilstra *vs.* Bast, page 160 and 161: "Do you know how many men were present at that meeting? A Well, they were counted and it was stated there were fifty-five. Q Who counted them? A Mr. Dalrymple." Do you remember so testifying?

A I don't recall all the particulars of that testimony at the present, but I do recall that—

Q Just answer my question. Do you recall testifying as I have read?

A I recall testifying in regard to the counting; it isn't all clear, what is testified. I do recall very clearly that we counted together.

The Court. No; that isn't the question; the question is whether you recall giving the testimony that Mr. Foulds has just read to you?

A I recall giving testimony in regard to it.

The Court. He has answered the question.

Q You recall giving that testimony (showing witness book of testimony).

A Yes, yes.

Q Then isn't it a fact that you did not count them, but Mr. Dalrymple counted them, and you are testifying to what Mr. Dalrymple told yeu?

A Well, to a certain extent it is.

Q Did you make a list of those persons who were present at that meeting?

A If I made a list? Yes, I think I did.

Q Were there persons present at that meeting who were not entitled to vote?

A Well, there was—I don't recall any just now, with the exception there might have been a couple in the rear of the church, couple or few in the rear of the church, which is not clear to me at present.

Q (*By the Court.*) He means men whom you counted?

A Oh, no.

Q But in the assemblage there were people who were not entitled to vote, were there?

A Right there when they were counted, no.

Q In the room?

A Well, as I say, in the rear of the church, I don't know if there were any there; those that we have counted, not.

Q How do you know who Mr. Dalrymple counted?

A Because I stood up and looked them over, faced them.

Q How do you know who he counted?

A I know that he counted those which he had right in front of him.

Q You mean you think he did?

A Well, I know he did; he went them over.

Q How do you know he went over?

A Well, he faced those in that particular bunch; the church is quite large, of course, as you know, and very distinctly he was looking on those sitting here.

Q You merely took his count for what were there?

A Yes, to a great extent; I started counting myself, but didn't finish it.

Q Do you remember whether Mr. Bronje was counted?

A Yes, he must have been counted, because he was in our action.

Q Was Mr. Bergsma counted?

A Yes, sure, he was in our action.

Q Was Mr.—

A Wait a moment. Bergsma—it is quite a while ago; I will have to refresh my memory on those points to be sure about it.

Q You have put in evidence a list of the members of the North Side church entitled to vote at that time, January 7 and 9, 1912.

Mr. Bradley. No, not at all; I object to that; counsel is stating something that is not so. We put in a church roll of the North Side church; that is not a list of those entitled to vote.

Q List of the whole members of the North Side church on January 7, and 9, 1912; do you find Mr. Bronje?

A I think Bronje was accepted in the action later on.

The Court. What you want to know is whether he was there at that meeting.

Mr. Foulds. He testified he was there at that meeting and voted. Now, it appears these three names which have been read, and which the witness testified were there, and voted, were not members of the church at that time; I don't know how many others were included.

The Court. Was Bronje a witness?

Mr. Foulds. No, but he isn't in this list of members. They put in evidence a list of members of the church, and it appears that these three men who the witness testifies took part in that meeting were not members of the church.

A Well, now, Bronje, that is a matter of record, Bronje has been, if I am not mistaken, the record will show you that Bronje had been accepted as a member of the church after that action.

Q He was not a member of the church on January 7 or 9, 1912?

A I hardly think he was.

Q And the same thing is true of Bergsma and Adrain?

A Adrain is not a member, and as far as Bergsma is concerned, the record will show, the record will show you clearly when those persons were accepted.

Q Mr. Dalyrmple, who has preceded you as a witness on the stand, is the solicitor of record of your faction?

A Why, yes.

Mr. Bradley. I offer in evidence the record in the New Jersey Supreme Court in the case of Hornstra *et als, vs.* Bast, *et als,* on *quo warranto,* as the same is shown by the printed case in the Supreme Court, and by a certified copy of the opinion of the Supreme Court, and of the judgment of the Supreme Court.

The Court. Does your offer include the testimony?

Mr. Bradley. Yes, the whole printed case.

Mr. Foulds. I object on the ground that it is immaterial unless it is put in for the purpose of—

The Court. The testimony part is not material. The record of the case, the judgment roll, will be evidence, but I do not see how you can get in the evidence that was taken on the rule to show cause.

Mr. Bradley. I do not offer that evidence of course as evidence of the facts testified to in this case, but I offer it to show the nature of the proceedings on the rule to show cause.

The Court. Oh, the record shows that, the judgment roll shows that.

Mr. Bradley. The judgment roll does not show the extent of the testimony and the character of the testimony taken.

The Court. No; when you plead a common law judgment you don't put in the evidence, you put in the judgment roll.

Mr. Bradley. Certainly, your honor, but some question has been raised on previous argument in this case on the motion to dismiss the order as to whether or not this was a final judgment, and as to whether or not there has been full consideration of the facts. Now, I want to put this in simply to show that the Supreme Court had before it everything your honor had before you now when this judgment is rendered, and it seems to me it is relevant and material and competent for that purpose.

The Court. I will consider it when I consider the case for decision.

ALL REST.

Exhibit C. 1.

Certificate of Incorporation of the North Side Church.

We, MATHYS KLAPMUTS, JAN SNOEP, NICK HORNSTRA, JETSE PRUIKSMA, JILLES BERGSMA, and JOHN SYLSTRA, all of the City of Passaic, in the County of Passaic and State of New Jersey, do certify that, on the twenty first day of July, in the year of our Lord, One Thousand Nine Hundred and Five, the congregation of the North Side Christian Reformed Church, a congregation of Christians of the denomination known as Christian Reformed, entitled to protection in the free use of their religion, by the constitution and laws of this State, assembled at their church, in Autumn street, in said City of Passaic, which is their usual place of meeting for public worship, for the purpose of electing trustees for the said congregation with a view to becoming incorporated according to law; and that at least ten days' notice of the time and purpose of such assembling had previously been given by advertisement set up in open view at said place of meeting, that the said time of assembling having been agreed upon by said congregation; and that said congregation, who so assembled, did then and there, by plurality of voices of such of the members of said congregation who regularly contribute to the support thereof, being male members, over twenty one years of age, as were present, elect us the said Mathys Klapmuts, Jan Snoep, Nick Hornstra, elders, and Jetse Pruiksma, Jilles Bergsma and John Sylstra, deacons, of the said congregation, there being no ministers or minister at the present time; to be the trustees of said congregation, and did instruct us to take upon ourselves a name of incorporation, and to certify the same under our hands and seals and transmit the same to the Clerk of the Court of Common Pleas of

Exhibit C. 1.

the County of Passaic for record, to the end that we, the said trustees, might become incorporated pursuant to the provisions of an act of the Legislature of the State of New Jersey, entitled "An Act to incorporate trustees of religious societies," and the supplements thereto and amendments thereof.

And we further certify that, pursuant to the said instructions and the provisions of the said act, we have taken upon ourselves the name of "The Minister, Elders and Deacons of the North Side Christian Reformed Church of Passaic," for a name of incorporation under said act.

Given under our hands and seals this twenty first day of July, in the year of our Lord, One Thousand Nine Hundred and Five.

HENRY BEWKES, Jr.

MATHYS KLAPMUTS,		(L. S.)
JAN SNOEP,	*Elders*	(L. S.)
NICK HORNSTRA.		(L. S.)
JETSE PRUIKSMA,		(L. S.)
JILLES BERGSMA,	*Deacons*	(L. S.)
JOHN SYLSTRA.		(L. S.)

Exhibit C. 1.

STATE OF NEW JERSEY,
COUNTY OF PASSAIC. } *ss.*

Be it remembered that on this twenty first day of July, in the year of our Lord, One Thousand Nine Hundred and Five, personally appeared, before me, the subscriber, a Master in Chancery of the aforesaid State, Mathys Klapmuts, Jan Snoep, Nick Hornstra, Jetse Pruiksma, Jilles Bergsma, and John Sylstra, who I am satisfied are the persons named in and who executed the within instrument and I having first made known to them the contents thereof they severally acknowledged that they signed, sealed and delivered the same as their voluntary act and deed for the uses and purposes therein expressed.

HENRY BEWKES, JR.
Master in Chancery of New Jersey.

Endorsement.

Received in the Clerk's Office of the County of Passaic on the 22d day of July, A. D., 1905, at 10 o'clock in the forenoon and recorded in Book "O" of Certificates for said County, on pages 232, &c.

JOHN J. SLATER,
Clerk.

Exhibit C. 2.

Deed to the North Side Church.

THIS INDENTURE, made the twenty-sixth day of March, in the year of Our Lord One Thousand Nine Hundred and six, between Francis C. Van Dyk and Marcia A. Van Dyk, his wife, of the City of Paterson, in the County of Passaic and State of New Jersey of the First Part; and "The Ministers, Elders and Deacons of the Northside Christian Reformed Church of Passaic," a corporation of the City of Passaic in the County of Passaic and State of New Jersey, of the Second Part:

WITNESSETH, That the said party of the first part, for and in consideration of One dollar and other valuable consideration, lawful money of the United States of America, to them in hand well and truly paid, by the said party of the second part, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, and the said party of the first part therewith fully satisfied, contented and paid, have given, granted, bargained, sold, aliened, released, enfeoffed, conveyed and confirmed, and by these presents do give, grant, bargain, sell, alien, release, enfeoff, convey and confirm to the said party of the second part, and to their successors and assigns for ever, ALL that certain tract or parcel of land and premises, hereinafter particularly described, situate, lying and being in the City of Passaic, in the County of Passaic and State of New Jersey: Beginning at the southwesterly corner of Burgess Place and Myrtle avenue and running thence (1) westerly, along the southerly side of Burgess Place, two hundred and eleven and twenty-three hundredths feet (211 23/100); thence (2) southerly and at right angles with the first course, one hundred and twenty-five (125) feet; thence (3) easterly and at right angles with the sec-

Exhibit C. 2.

ond course, one hundred and eighty-five and thirty-two hundredths feet (185 32/100), to the westerly side of Myrtle avenue; thence (4) northerly along the said westerly side of Myrtle avenue, one hundred and twenty-seven and sixty-five hundredths feet (127 65/100) to the point or place of beginning.

Being the same premises conveyed by Mendel Presberger and wife to said Francis C. Van Dyk by deed dated December 20, 1900, and recorded in book S. 14, page 545 of deeds for Passaic county.

Together with all and singular the houses, buildings, trees, ways, waters, profits, privileges and advantages, with the appurtenances to the same belonging or in anywise appertaining;

Also, all the estate, right, title, interest, property, claim and demand whatsoever, of the said party of the first part, of, in and to the same, and of, in and to every part and parcel thereof:

To have and to hold, all and singular the above described land and premises, with the appurtenances, unto the said party of the second part, their successors and assigns, to the only proper use, benefit, and behoof of the said party of the second part, their successors and assigns forever; and the said Francis C. Van Dyk, does for himself, his heirs, executors and administrators covenant and grant to and with the said party of the second part, their successors and assigns, that the said parties of the first part are the true, lawful and right owners of all and singular the above described land and premises, and of every part and parcel thereof, with the appurtenances thereunto belonging; and that the said land and premises, or any part thereof, at the time of the sealing and delivery of these presents, are not encumbered by any mortgage, judgment, or limitation, or by any encumbrance whatsoever, by which the title of the said party of the second part, hereby made or intended to be made, for the above described land and premises, can

or may be changed, charged, altered or defeated in any way whatsoever.

And also, that the said party of the first part now have good right, full power and lawful authority to grant, bargain, sell and convey the said land and premises in manner aforesaid.

And also, that he, the said Francis C. Van Dyk, will warrant, secure, and forever defend the said land and premises unto the said "The Ministers, Elders and Deacons of the Northside Christian Reformed Church of Passaic," their successors and assigns, forever, against the lawful claims and demands of all and every person or persons, freely and clearly freed and discharged of and from all manner of encumbrances whatsoever.

IN WITNESS WHEREOF, the said party of the first part have hereunto set their hands and seals the day and year first above written.

FRANCIS C. VAN DYK, (L. S.)
MARCIA A. VAN DYK, (L. S.)

Signed, sealed and delivered, in the presence of

EDWARD R. WEISS.

Exhibit C. 2.

STATE OF NEW JERSEY, }
COUNTY OF PASSAIC. } *ss.*

BE IT REMEMBERED, That on this twenty-sixth day of March, in the year of Our Lord One Thousand Nine Hundred and six, before me, a Master in Chancery of New Jersey, personally appeared Francis C. Van Dyk and Marcia A. Van Dyk, his wife, who, I am satisfied are the grantors in the within Deed of Conveyance named, and I having first made known to them the contents thereof, they did acknowledge that they signed, sealed and delivered the same as their voluntary act and deed, for the uses and purposes therein expressed:

And the said Marcia A. Van Dyk, being by me privately examined, separate and apart from her husband, did further acknowledge that she signed, sealed and delivered the same as her voluntary act and deed, freely, without any fear, threats or compulsion of her said husband.

EDWARD R. WEISS,
Master in Chancery of New Jersey.

ENDORSEMENT.

Received in the Clerk's Office of the County of Passaic on the 30th day of March, A. D. 1906 at 12:03 o'clock in the afternoon, and Recorded in Book 217 of DEEDS for said County, on pages 202, &c.

JNO. J. SLATER,
Clerk.

Exhibit C. 3.

Petition of Certain Members.

We undersigned, members of the North Side Christian Reformed Church of Passaic, acknowledge ourselves and our said church to have been at all times and at the present time under the authority of the Classis of Hudson of the Christian Reformed Church. We recognize the jurisdiction of said classis to determine disputes and disagreements concerning both spiritual and temporal affairs in the church organizations within their territory including the North Side Christian Reformed Church of Passaic. We recognize as the lawful consistory of said North Side Church Messrs. John Schilstra, Nich Hornstra, Herbert Prins, Leonard Wynbeek and William S. Pontier and do repudiate and hold to be unlawful, void and contrary to the laws of the church, all acts and attempted acts of Arie J. Van den Heuvel and his associates pretending to be or act as the consistory of said church and we repudiate and hold to be unlawful and void, their attempted secession from the Classis of Hudson and we request Messrs. Schilstra, Hornstra, Prins, Wynbeek and Pontier to institute on our behalf such legal proceedings as they may deem proper to protect the said church property and to preserve the established church government and management in accordance with the laws and rules of the Christian Reformed Church.

Cornelius Maat, Ring Spaanstra, C. M. W. Clever, William Atsma, Maggie Atsma, Leffert Oosterhout, Jennie Oosterhout, Cornelus F. Sneep, Mrs. C. F. Snoep, Mrs. Jacoba Prins, Miss Cora Prins, Herbert Prins, N. Groenewegen, H. F. Van Reken, C. C. Van Reken get Biekart, M. Van Beveren, Antje van Beveren van den Berge, Mathijs Klapmust, Mrs. Klapmust, Jos. Fisher, Mrs. J. Fisher, Mrs. De Groot, Mrs.

Exhibit C. 3.

Topp, H. Hoedemans, Mrs. Hoedemans, H. Bosloper, C. I. Bosloper Roeraaden, John Hoedmans, Jacob Brouwer, Mrs. J. Brouwer, Mr. C. Verweij, Mrs. C. Verweij, Mrs. H. Smith, Imand VanBiert, Mrs. J. Van Biert, Jacob de Leeuw, Mrs. J. de Leeuw, Mrs. Th. Wispelwej, John Klapmuts, John A. Prins, Mrs. John A. Prins, Tryntje Zylstra, Mrs. R. Spaanstra, Mrs. C. Maat, Rine De Vries, Mr. Sperd De Vries, H. M. Clever Nuis, Edward Lazars, Mrs. E. Lazare, Peter Van der Hey, Jr., Mrs. P. Van der Hey, Jr., Bernard Krotje, Mrs. B. Krotje, L. Spaanstra, Mrs. Spaanstra, Gezienes Nuis, Mrs. G. Nuis, A. Spaanstra, Mrs. A. Spaanstra, Peter Maat, Mrs. P. Maat, D. Vanderlaan, Mrs. C. Vander Laan, Abe Lieuwer Bangma, Mrs. L. Bansma, Mr. Peter Van Der Zee, Mrs. P. Van Der Zee, Mrs. Cupenus, Maartje Bakker, Mrs. Walter J. Priuksma, Miss Sadie Cuperus, Miss Rigtje, Van Der Zee, Peter van der Hey, Sr., Mrs. P. Van der Hey, Mr. Paul Lyman, Mrs. Nellie Lyman, Mr. Cent Maat, Mrs. Mariea Maat, John R. De Vries, Mrs. Maria De Vries, Mrs. Maria De Vries nee Schilstra, Mr. Nick De Vries, Mrs. Gertie De Vries, Mrs. Lena Pontier, Mrs. Trina Hornstra, Mrs. Pietje Rienstra, John Schilstra, Mrs. Nellie Schilstra, William S. Pontier, Nich Hornstra, Leonard Wynbeek, Oker De Vries, Minnie De Vries, Mrs. E. Kievitt, Miss C. Kievitt, Mrs. Johaana Wynbeek, Mr. C. Snoop, Mrs. C. Snoop, Fenkje W. Boontje, Mr. Nicholas De Vries, Mrs. Anie Kievit, Mrs. W. Priuksma, Mrs. John Sweetman, Mr. John Sweetman, Frank J. De Boer, Mrs. Ruther De Boer, per F.

Exhibit C. 4.

Minutes of Classis of Hudson.

Special Classis, held January 11, 1912.

The Classis of Hudson, having taken due notice of all the proceedings of the consistory of North Side which were made under the direction of the president of the supervising consistory of Hope Avenue, he having been called in to act in that capacity, places its approval upon these proceedings in so far as they are reported by the present consistory of our congregation at North Side.

The classis further taking due notice of the fact that the installation of all candidates was postponed until the consistory of North Side in conjunction with a neighboring consistory had passed judgment in reference to the complaints entered against these candidates—this resolution having been taken by the consistory of North Side upon recommendation of Hope Avenue—approves of this resolution to postpone said installation upon the following grounds:

(a) Because eleven complaining brethren had appeared at the consistory and made complaint against all the candidates with the exception of Brother Roosma.

(b) Because the consistory possessed evidence that there was a movement in the congregation to incite a spirit of rebellion with the purpose that this rebellion should break forth openly as soon as the candidates were installed (of minutes of consistory, Hope Ave., Jan. 6, 1912).

(c) Because the recommendation of Hope Avenue had binding power, which power was delegated to Hope Avenue by the Classis, Hope Avenue had advised to postpone the installation until a double consistory gave further advice in the matter—and had advised

Exhibit C. 4.

further for the sake of good order that the installation of Brother Roosma be postponed likewise, although a word of esteem was expressed for his good conduct. (Hope Ave. Minutes, Jan. 6, 1912.)

The Classis taking due notice of the fact that

(a) The Brethern Bast and Groenhof as vice-president and clerk of consistory, in spite of the resolution of the consistory to postpone the installation, created a disturbance in the divine service of the Sabbath-day, by stating that a congregational meeting was called by them.

(b) That Brother Bast stated that this (so-called) "congregational meeting," would then deliberate on the question whether the installation should take place or not (while it is a fact that in Reformed Churches such a decision can be made only by the consistory and in this particular case, could be made only by the two consistories, Hope Avenue and North Side together).

(c) That the consistory, after this so-called "announcement" for such an illegal action, resolved at noon to officially make known from the pulpit that the meeting called by Brother Bast would not be a legal congregational meeting.

(d) That the Brethren Bast and Groenhof persevered in their open opposition and rebellion against their own consistory as well as against the resolutions of Classis Hudson and held a meeting of schismatic nature, a meeting which had been declared illegal—therefore the Classis declares:

1. That only the resolutions and all the resolutions taken by the majority of the consistory can in this case be regarded as legal resolutions of the consistory and therefore are legal in so far as Hope Avenue has approved of them.

2. That the Brethren Bast and Groenhof have made themselves guilty of sins specifically named in

Exhibit C. 4.

Art. 80 (D. K. O. Christian Reformed Church Manual) and thereby have made themselves worth of being peremptorily deposed from their offices.

3. That the meeting of the members of the congregation called by Brother Bast, "a meeting of male members," is condemned by this Classis as being "unreformed and illegal."

4. That all resolutions taken there cannot and may not be regarded as legal resolutions of the congregation North Side.

5. That all office-bearers in the congregation at North Side have had a legal right to retain their offices and shall continue to retain them as long as they are not legally deposed according to D. K. O. (Christian Reformed Church Manual), or until others are legally substituted in their place.

6. That the elders, Hornstra, Prins and Schilstra and the deacons Pontier and Wynbeck, who, as far as can be judged, have remained faithful in every respect until now, are the legal consistory of our incorporated congregation at North Side. This consistory remains legally such until a change is made in a Reformed manner and upon the advise of the consistory at Hope Avenue, or in case another resolution be taken by the Classis.

7. That the so-called installation of the newly chosen brethren is regarded as illegal because this was done in opposition to the resolution of the consistory at North Side.

8. The Classis of Hudson legally assembled this day considering that the Rev. A. J. Van den Heuvel with a large number of the members separated from the Christian Reformed Church and made himself the leader of a newly organized congregation, considering further that, this action viewed in the light of scripture, confession and church manual can be characterized only as a very serious and offensive sin

Exhibit C. 4.

of mutiny and schism, considering, that the schism according to church manual (Art. 80) falls under the sins which make one worthy to be deposed, therefore, the Classis resolves, in the name and with the authority of the Lord Jesus Christ, the King of the Church, to remove him from his ecclesiastical functions, to give him a written notice of this resolution and to officially inform the other Classis of the denomination.

9. That the property and possessions of the congregations, North Side rightfully belong to the Christian Reformed Church at North Side which has remained faithful and which abides by the resolutions of Classis Hudson and recognizes as the legitimate consistory of the congregation, that body which consists of the elders, Hornstra, Prins and Schilstra and the Deacons Pontier and Wynbeek, the legitimate consistory in our churchs acts as a legally appointed Board of Trustees and consequently the consistory remains the administrative body of all ecclesiastical possession of North Side.

10. That the Classis thus authorizes the consistory to carry into effect these classical resolutions in order to retain by process of law possession of the church property.

11. That this Classis protests against the use of our name by any other corporation.

12. That North Side be informed that a candidate shall speak there in place of Rev. K. Van Goor, the fourteenth of January.

Exhibit C. 6.

Articles of Dort.

Rules of Church Government.

ARTICLE XXII.

Elders and Deacons.

The elders shall be chosen by the judgment of the consistory and deacons as shall best suit the situation of each church; either to nominate as many elders as shall be judged necessary for the approbation of the members in full communion, and upon their being approved, and found acceptable to confirm them with public prayers and engagements; or to propose a double number that the one-half of those nominated may be chosen by the members, and in the same manner confirmed in their office according to the form for that purpose.

ARTICLE XXIV.

The deacons shall be chosen, approved and confirmed in the same manner as the elders.

ARTICLE XXVII.

The elders and deacons shall serve two years, and the one half changed annually, and others appointed in their room, unless the situation and advantage of some particular churches should otherwise require.

ARTICLE XXXI.

If any person conceive himself aggrieved by the decision of a lesser assembly, he shall have the liberty and right of appealing to a higher; and that which is determined by a majority of voices in such assembly shall be held decisive and binding, unless it can be demonstrated to be contrary to the Word of God, and these articles.

Exhibit C. 6.

ARTICLE XXXVI.

A Classis hath the same jurisdiction over a consistory which a General Synod hath over a Classis. A Particular Synod holds an intermediate place between a Classis and a General Synod.

ARTICLE XXXVII.

In all churches there shall be a consistory composed of ministers and elders, who shall meet together at least once every week. In which the minister of the word (or ministers if more than one) shall preside in turn and moderate the business.

ARTICLE XXXVIII.

No new consistory shall be constituted in any particular place without the previous advise and concurrence of Classis, and where the number of elders is too small, the deacons may be admitted as members of consistory.

ARTICLE XLI.

A Classical Assembly shall consist of all the ministers with an elder from every congregation within a particular district with proper credentials to the place and at the time agreed upon at the rising of the preceding Classis, the interval not to exceed three months.

ARTICLE LXXIX.

If ministers of the word, elders or deacons have committed any gross sin, which is scandalous to the church, or punishable by the civil magistrate, the elders or deacons shall immediately be removed from their office by the previous determination of the consistory of their own and next adjacent church. But the minister shall be suspended or deposed, as the case may require, by the Classis.

Exhibit C. 7.

Minutes of Meeting of Classis of Hudson

Held on August 3rd, 1911, translated from the Holland language.

The Classis declares:—

(a) That it has become evident, by what the protesting brethren brought against the Rev. Vanden Heuvel, that he, by his improper and imprudent conduct in the entire process of the Hettama case has given offence and inducement for derision in the congregation; sins of such a severe nature that they would cause censure over a common member even, still more-so over a minister of the gospel.

(b) That Classis therefore finds herself called in the name of the Lord to ask and admonish the Rev. Vanden Heuvel to make open confession of these sins and to reconcile himself with his consistory and with his congregation.

(c) That Classis in case the Brother should not comply with this request finds herself brought to the deplorable necessity to suspend him in his office for six weeks as per Dort Church Rules Articles 79 and 80.

(d) That Classis authorizes and bids the consistory of Second Paterson to execute this classical decision, and, if it seems necessary to call a special classis.

(This entire resolution was taken thus:—1st the points a, b, and c separately and point d.)

G. WESTENBERG.

(The form of open confession which the Rev. Van den Heuvel was requested by Classis to conform before the congregation and which he actually did on the following Sabbath after the session of Classis is formulated by Classis thus:

Exhibit C. 7.

(a) Rev. Vanden Heuvel do you acknowledge here before God and his congregation, that it has caused you deep sorrow of heart, that you, by your improper and imprudent conduct in this entire well known cause, have given offence and inducement for derision in the congregation?

(b) That you sought and found forgiveness of these sins?

(c) That you decided to act and walk carefully henceforth, and that you shall watch and pray not to fall again in these kinds of sins?

G. WESTENBERG, *Stated Clerk.*

Minutes of meeting of Classis of Hudson held Nov. 23, 1911, translated from the Holland language.

Resolved:—Seeing the course of matters in North Side, it has become clear to the Classis that the Rev. Vanden Heuvel is not able to conduct those matters in that congregation. Therefore is this classis necessitated, although with deep sorrow to come to the decision to sever the connection between the Rev. Vanden Heuvel and his congregation.

In regard to the manner of so doing it is resolved:—

(a) That the Classis shall put herself in connection with all the members of the consistory North Side in order to work jointly if possible.

(b) If the consistory will not consent to work jointly in this severing of said connection, then Classis will nevertheless proceed to execute this resolution.

(c) Classis shall execute this decision in a special session to be held the thirteenth day of December, 1911.

(d) Rev. Vanden Heuvel shall be put on money for waiting (for another call) to be supplied by Classis. The amount of which shall be decided upon at the following session.

Exhibit C. 7.

(e) The special session shall be held in the Hope Avenue Church at Passaic.

G. WESTENBERG, *Stated Clerk.*

Translation of minutes of meeting of the Classis of Hudson held on December 13th, 1911.

Resolved:

(a) That the execution of the resolution to sever the connection of the Rev. A. J. Vanden Heuvel with his congregation shall be postponed until Synod and that Classis shall abide by what Synod may decide upon.

(b) That the Rev. Vanden Heuvel until the time of Synod's decision shall have vacation with continuation of his salary, provided that Rev. Vanden Heuvel shall go out to preach and reimburse all remuneration received therefore into the treasury of the congregation.

(c) That the consistory North Side shall not do anything without advice and consent of the consistory of the Hope Avenue congregation, that the minister of North Side shall withhold himself from all work in that congregation.

(d) That the consistory of Hope Avenue has the right to call a special Classis, whenever such is deemed necessary.

(e) That the congregation of North Side shall receive classical appointments for love's sake every other Sabbath until the next Classis, for which only the traveling expenses need to be remunerated.

These classical appointments are as follows: Dec. 17, Rev. Hoekstra, Dec. 31, Rev. Keizer, Jan. 14, Rev. Van Goor, Jan. 28, Rev. Kosten, Feb. 11, Rev. Welandt, Feb. 25, Rev. Krohne, Mar. 10, Rev. Westenberg, Mar. 24, Rev. Bolt, April 7, Rev. Fortuin.

G. WESTENBERG, *Stated Clerk.*

Exhibit C. 8.

Form of Ordination of Elders and Deacons.

When ordained at the same time. But if they are ordained separately, this form shall be used as occasion requires.

BELOVED CHRISTIANS, You know that we have several times published unto you the names of our brethren here present, who are chosen to the office of elders and deacons in this Church, to the end that we might know whether any person had aught to allege, why they should not be ordained in their respective offices; and whereas no one hath appeared before us, who hath alleged anything lawful against them, we shall therefore at present, in the name of the Lord, proceed to their ordination.

But first, you, who are to be ordained, and all those who are here present, shall attend to a short declaration from the word of God concerning the institution and the office of elders and deacons.

Of the elders it is to be observed, that the word elder or eldest (which is taken out of the Old Testament, and signifieth a person who is placed in an honorable office of government over others) is applied to two sorts of persons who minister in the Church of Jesus Christ; for the apostle saith, "the elders that rule well, shall be counted worthy of double honor, especially they who labor in the word and doctrine." Hence it is evident that there were two sorts of elders in the Apostolic Church, the former whereof did labor in the word and doctrine, and the latter did not. The first were the ministers of the word and pastors, who preached the gospel and administered the sacraments; but the others, who did not labor in the word, and still did serve in the church, bore a particular office, namely, they had the oversight of the church, and ruled the same with the ministers of the word; for Paul, Rom. Chap. 12, having spoken of the ministry of the word, and also of the office of distribution or

deaconship, speaketh afterwards particularly of this office, saying, "he that ruleth let him do it with diligence:" likewise, in another place, he counts government among the gifts and offices which God hath instuted in the Church: 1 Cor. 12. Thus we see that these sorts of ministers are added to the others who preach the gospel, to aid and assist them, as in the Old Testament the common Levites were to the priests in the service of the tabernacle, in those things which they could not perform alone; notwithstanding the offices always remained distinct one from the other. Moreover, it is proper that such men should be joined to the ministers of the word in the government of the Church, to the end, that thereby all tyranny and lording may be kept out of the Church of God, which may sooner creep in, when the government is placed in the hands of one alone, or of a very few. And thus the ministers of the word, together with the elders form a body or assembly, being as a council of the Church, representing the whole Church; to which Christ alludes when he saith, "Tell the Church,"—which can in no wise be understood of all and every member of the Church in particular, but very properly of those who govern the Church out of which they are chosen.

Therefore, in the first place, the office of the elders is, together with the ministers of the word, to take the oversight of the Church, which is committed to them, and diligently to look, whether every one properly deports himself in his confession and conversation; to admonish those who behave themselves disorderly, and to prevent, as much as possible, the sacraments from being profaned: also to act (according to the Christian discipline) against the impenitent, and to receive the penitent again into the bosom of the Church, as doth not only appear from the above-mentioned saying of Christ, but also from many other places of Holy Writ, as 1 Cor. chap. 5 and 2 Cor. chap. 2, that these things are not alone intrusted to one or two persons, but to many who are ordained thereto.

Exhibit C. 8.

Secondly. Since the apostle enjoineth, that all things *shall be done decently and in order,* among Christians, and that no other person ought to serve in the Church of Christ, but those who are lawfully called, according to the Christian ordinance, therefore it is also the duty of the elders to pay regard to it, and in all occurrences, which relate to the welfare and good order of the Church, to be assistant with their good counsel and advice, to the ministers of the word, yea, also to serve all Christians with advice and consolation.

Thirdly. It is also their duty particularly to have regard unto the doctrine and conversation of the ministers of the word, to the end that all things may be directed to the edification of the Church; and that no strange doctrine be taught, according to that which we read, Acts 20, where the apostle exhorteth to watch diligently against the wolves, which might come into the sheepfold of Christ, for the performance of which, the elders are in duty bound diligently to search the word of God and continually to be meditating on the mysteries of faith.

Concerning the deacons: of the origin and institution of their office we may read, Acts 6, where we find that the apostles themselves did in the beginning serve the poor, "at whose feet were brought the price of the things that were sold: and distribution was made unto every man, according as he had need. But afterwards, when a murmuring arose, because the widows of the Grecians were neglected in the daily ministration:" men were chosen (by the advice of the apostles) who should make the service of the poor their peculiar business, to the end that the apostles might continually give themselves to prayer, and to the ministry of the word. And this has been continued from that time forward in the Church, as appears from Rom. 12, where the apostle, speaking of this office, saith, "he that giveth, let him do it with simplicity." And 1 Cor.

12, 28, speaking of helps, he means those, who are appointed in the Church to help and assist the poor and indigent in time of need; from which passages we may easily gather, what the deacon's office is, namely, that they in the first place collect and preserve with the greatest fidelity and diligence, the alms and goods which are given to the poor; yea, to do their utmost endeavors, that many good means be procured for the relief of the poor.

The second part of their office consists in distribution, wherein are not only required discretion and prudence to bestow the alms only on objects of charity, but also cheerfulness and simplicity to assist the poor with compasion and hearty affection; as the apostle requires, Rom. chap. 12; and 2 Cor. chap 9. For which end it is very beneficial, that they do not only administer relief to the poor and indigent with external gifts, but also with comfortable words from Scripture.

To the end therefore, beloved brethren, N., N. that every one may hear, that you are willing to take your respective offices upon you, ye shall answer to the following questions:

And in the *first* place I ask you, both elders and deacons, whether ye do not feel in your hearts, that ye are lawfully called of God's Church, and consequently of God himself, to these, your respective holy offices?

Secondly. Whether ye believe the books of the Old and New Testament to be the only word of God, and the perfect doctrine of salvation, and do reject all doctrines repugnant thereto?

Thirdly. Whether ye promise, agreeably to said doctrine, faithfully, according to your ability, to discharge your respective offices, as they are here described? ye elders in the government of the church together with the ministers of the word; and ye deacons in the ministration to the poor? Do ye also jointly promise to walk in all godliness, and to submit yourselves, in case ye should become remiss in your duty,

to the admonitions of the church?—*Upon which they shall answer*s Yes.

Then the Minister shall say:

The Almighty God and Father, replenish you with all his grace, that ye may faithfully and fruitfully discharge your respective offices. *Amen.*

The Minister shall further exhort them, and the whole congregation, in the following manner:

Therefore, ye elders, be diligent in the government of the Church, which is committed to you, and the ministers of the word. Be also, as watchmen over the house and city of God, faithful to admonish and to caution every one against his ruin. Take heed that purity of doctrine and godliness of life be maintained in the Church of God. And, ye deacons, be diligent in collecting the alms, prudent and cheerful in the distribution of the same: assist the oppressed, provide for the true widows and orphans, show liberality unto all men but especially to the household of faith.

Be ye all with one accord faithful in your offices, and hold the mystery of the faith in a pure conscience, being good examples unto all the people. In so doing you will purchase to yourselves a good decree, and great boldness in the faith, which is in Christ Jesus, and hereafter enter into the joy of our Lord. On the other hand, beloved Christians, receive these men as the servants of God: count the elders that rule well worthy of double honor, give yourselves willing to their inspection and government. Provide the deacons with good means to assist the indigent. Be charitable, ye rich, give liberally, and contribute willingly. And, ye poor, be poor in spirit, and deport yourselves respectfully towards your benefactors, be thankful to them, and avoid murmuring: follow Christ for the food of your souls but not for bread. "Let him that hath stolen (or who hath been burthensome to his neighbor) steal no more; but rather let him labor,

working with his hands the things which are good, that he may give to him that needeth." Each of you, doing these things in your respective callings, shall receive of the Lord, the reward of righteousness. But since we are unable of ourselves, let us call upon the name of the Lord saying,

O Lord, God and heavenly Father, we thank thee that it hath pleased thee, for the better edification of thy Church, to ordain in it, besides the ministers of the word, rulers and assistants, by whom thy Church may be preserved in peace and prosperity, and the indigent assisted; and that thou hast at present granted us in this place men who are of good testimony and we hope endowed with thy Spirit. We beseech thee, replenish them more and more with such gifts as are necessary for them in their administration; with the gifts of wisdom, courage, discretion, and benevolence, to the end that every one may, in his respective office, acquit himself as is becoming; the elders in taking diligent heed unto the doctrine and conversation, in keeping out the wolves from the sheepfold of thy beloved Son; and in admonishing and reproving disorderly persons. In like manner, the deacons in carefully receiving, and liberally and prudently distributing of the alms to the poor, and in comforting them with thy holy word. Give grace both to the elders and deacons, that they may persevere in their faithful labor, and never become weary by reason of any trouble, pain or persecution of the world. Grant also especially thy divine grace to this people, over whom they are placed, that they may willingly submit themselves to the good exhortations of the elders, counting them worthy of honor for their work's sake; give also unto the rich, liberal hearts towards the poor, and to the poor grateful hearts towards those who help and serve them; to the end that every one acquitting himself of his duty, thy holy name may thereby be magnified, and the kingdom of thy Son Jesus Christ, enlarged, in whose name we conclude our prayers, etc.

Exhibit C. 10.

GENERAL SYNOD.

Chicago, Ill., June 27, 1912.

Translation Acta Synode, 1912, p. 61.

(Report Classis Hudson.)

The Synod makes the following declarations:

1. That the consistory of the congregation at Northside, Passaic, N. J., had the authority to postpone the installation of the newly-elected elders and deacons since complaints had been lodged against them, and opportunity had to be given for the investigation of said complaints.

2. That it was right to continue the old consistory members in office, in order that they might have the opportunity to investigate whether these complaints were valid or not.

3. That the consistory members whose terms expired might legally continue in their office, and are recognized by Classis Hudson as legal consistory members and trustees of the congregation, since those who were newly-elected were illegally installed by Rev. Vanden Heuvel.

4. That the articles of the Church Manual mentioned in the Synodical Agendum, in as far as they have a hearing on the aforementioned points, have been correctly interpreted and applied by Classis Hudson.

A. KEIZER,
Pres. of Synod.

J. B. HOEKSTRA,
Clerk.

Exhibit C. 11.

From the Minutes of the Consistory Meeting of Hope Ave., Jan. 6, 1912.

ART. II.

The President renders report in regard to his work as acting consulent with the congregation at Northside. This is duly heard and approved of by this consistory in the name of Classis Hudson * * *

At the beginning of the first consistory meeting the brethren Bast and Groenhof made some trouble. The Secretary (Bast) would not read the minutes upon request of the president, who had been put in the chair by majority of votes (besides the fact that he was such *qua causa* of being acting consulent). The two brethren declared not to acknowledge this meeting, because they were standing in protest against the Classis Hudson; and that they would proceed in their own way.

The minutes were required successive times and just as often denied to be read. A motion was made and seconded to chose another Secretary *pro tem*, whereupon the two brethren changed their mind. Everything went on in good spirit and the two brethren took regular part in everything without protest.

On the second consistory meeting, eleven brethren appeared to make complaint, against the chosen candidates, except candidate Rossma.

a. They had since classis, most of the time, acted unfaithful in their attendance of divine service.

b. Not one of their children attended catechism.

c. They revealed thereby a rebellious spirit.

After the eleven brethren had left the President said that he had been informed Tuesday morning that

Exhibit C. 11.

a spirit of mutiny has been fostered by some consistory members and the candidates and spread in the congregation secretly. This conspiration has in mind come in open rebellion against the Classis of Hudson by breaking the church connection as soon as the consistory shall have confirmed the candidates, by which act five of the loyal officers shall withdraw and the mutinous element shall be in the majority. The President expresses his sorrow and states that such mutiny alone would be sufficient reason for postponing the confirmation until due investigations * * *

A motion was made and seconded that the consistories Hope Ave. with this consistory and a third consistory shall consider this matter in united meeting. (Art. 79, D. K. O.) and, thus to postpone the installation. The first motion was decided by the President, because Deacon Bergsma would not vote. The second vote was decided with 5 votes against 4 of the consistory itself.

ART. III.

Resolved to the truth of the above report attested to by the consistory of Northside by means of the following forms:

The following note is here signed in the book, viz:

The above given report has this day, the 8th day of January, 1912, been read in open consistory meeting of North Side and is found to be true.

THE CONSISTORY NORTH SIDE,

H. PRINS, *Pres.*,

W. S. PONTIER, *Secretary.*

Exhibit C. 11.

ART. IV.

The President reports furthermore his ground that he had given to consent to the postponement of the installation of candidates, and upon which grounds the consistory had resolved to postpone the same:

2. The onesided and partial manner in which the Secretary had written the minutes of the first consistory meeting presided over by the reporter. Brother Bast makes it appear there as if the President had not taken the chair on special invitation of the consistory by majority of votes, although the fact is that such an invitation by majority of votes had been extended. Also the untrue statement in those minutes as if the minutes had only been surrendered by the Secretary in order to just get to talking a bit together in an inofficial manner.

b. The second ground for postponing the confirmation was because the elders Bast and Groenhof evaded a definite reply to the question as to their intentions for the future actions after the candidates should have been confirmed.

NOTE: The following certificate is here signed in the book:

ART. V.

The consistory North Side has also this day found that the facts given in the above grounds are true statements.

The Consistory North Side, Jan. 8, 1912.

H. PRINS, *Pres.,*
W. S. PONTIER, *Secretary.*

The addition of the complaints of eleven members is found elsewhere.

Exhibit C. 11.

ART. VI.

Resolved to advise North Side that the candidates must not be installed until after the tripple consistories have met.

Resolved also to advise that the brethren candidates be all held together with the expectation that all may soon be installed.

Resolved to express glad approval of the loyalty shown by Candidate Rossma in faithfully complying with all membership duties as an exception amongst them.

Resolved to advise that consistory of first Poteon be called as the third consistory.

Resolved to recommend holding this triple meeting Friday evening, Jan. 12, 1912.

(Closing.)

HOPE AVE. CONSISTORY MINUTES,

JAN. 10, 1912.

ART. VI.

The President reports that our advices were brought to North Side on Sunday.

CONSISTORY MEETING NORTH SIDE,

SUNDAY MORNING.

Jan. 7, 1912, before service:

The candidates come in and ask to be installed this morning. Brother DeRoos says that he has been nominated by vote and now feels offended that the consistory will not install him.

The consistory replies that it has not decided not to instal them, but to postpone the installation.

Brother DeRoos says, that the Secretary has not informed him of that decision in an official manner,

although he admits that Mr. Bast had told him. The consistory replies that such has then been a neglect of duty on the part of the secretary.

Brother Groenhof says that he orders Brother Bast to call a congregation meeting in his name. Brother Pontier admonishes Groenhof, saying that if he dares to do that he thereby will make himself guilty of open rebellion against the consistory and classis.

(Closed.)

NORTH SIDE CONSISTORY, SUNDAY NOON, before afternoon services, January 7, 1912.

Exhibit C. 12.

Complainants' roll of adult male members of the North Side Christian Reformed Church of Passaic, of January 7, 1912, who have continued their membership with the complainants.

William Atsma	Herbert Prins
Hendrick Bosloper	F. Cornelius Snoep
Frederick F. Brouwer	Rienk Spaanstra
Rein S. De Vries	Lambert Spaanstra
Nanne De Vries	Atte Spaanstra
Wiebe De Vries	John Schilstra
Klaas De Vries	John Top
Jacob De Leeuw	Dirk Van der Laan
Frank De Boer	Peter Van der Hey, Sr.
Oker De Vries	Peter Van der Hey, Jr.
Nicolas Groenswegen	Johannes Verbiert
Hendrick Hoedeman	Jozias Visser
Johannes Hoedeman	Imand Verbiert
Matthys Klopmuts	Maarten Van Beveren
Jan Klopmuts	Hendrick F. Van Reken
Cornelius Kievit	Leonard Wynbeek
Berend Krotje	Johannes Sweetman
Edward P. L. Lazare	Cornelius Verweij
Paul Lyman	Nick Hornstra
Cornelius Maat	Christian F. W. Clever
Cent Maat	Gesinus Nuis
Pieter Maat	Lieuwe Bangma
Leffert K. Oosterhout	Jacob Klynsma
William S. Pontier	John A. Prins

Exhibit C. 13.

EXCERPTS FROM TRANSLATION OF THE MINUTES OF THE NORTHSIDE CHURCH.

Minutes of the Consistory Meeting, Oct. 31, 1910.

* * * * * *

8. Resolved: That the retiring members of consistory are elligible for re-election.

9. The making of nominations for elders and deacons was made the order. The brethren elders M. Klapmuts and C. Maat, also deacons W. Atsma and C. Snoep wished to be considered no further.

10. The result of the vote for nomination was, for elders, as candidates, the brethren John Broenhof, M. J. Bast, Hubrecht Snoep and Fedde DeRuiter, Sr., were designated. For deacons, the brethren Peter Vander Plaat, Leonard Osterhoud, Wick DeVries and Leo Wynbeek.

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Minutes of the Congregational Meeting held Nov. 24, 1910.

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6. Inasmuch as the meeting was held mainly for the purpose of electing consistory members, the meeting proceeded to do so, after having previously resolved that one-half plus one should be a decisive vote. There were 53 members present; three votes by proxy having come in from members who were not able to be present; making a total of 56 votes as follows: For elders the vote was:

44 votes for Groenhof
36 votes for M. J. Bast
20 votes for F. DeRuiter
7 votes for H. Van Reken

Exhibit C. 13.

The result accordingly was that Bros. J. Groenhaf and M. J. Bast were elected as elders.

The vote for deacons was next taken, the same number of votes as above said, of which the vote was as follows:

39 votes for P. Vander Plaat
30 votes for L. Wynbeek
25 votes for J. DeLeew
17 votes for L. Osterhoud.

The result of this vote was the election of Bros. P. Vander Plaat and L. Wynbeek as deacons.

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Consistory Meeting, held October 23rd, 1911.

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14. The election of the consistory.

(a) The consistory resolves that henceforth retiring consistory members shall not be elligible for reelection, so long as the contrary is not necessary. The following are chosen for candidacy for the next election: L. Bangma, C. Herder, J. Pruiksma, F. DeRuiter, H. Snoep, and J. Zylstra for elders; and M. Haakmeester, E. Lazare, L. Osterhoud and W. S. DeVries for deacons.

(b) The turn to retire as elders is up to the brothers Schilstra, Hornstra and Prins, and as deacons W. Pontier, and Chr. Bergsma. A motion to change the number of elders from five to four is refused.

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Minutes of Consistory Meeting, Oct. 30, 1911.

8. *Nomination.* The consistory resolved that the grounds given by the candidates were not sufficient and were not accepted by the consistory. Wherefore the consistory resolved not to change the list of candidates.

Exhibit C. 13.

Congregational Meeting, Nov. 15, 1911.

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3. *Election.* Out of the previously stated candidates, six for elders and four for deacons, which were, namely for elders: L. Bangma, C. Herder, J. Pruiksma, F. DeRuiter, H. Snoep, J. Zylstra; for deacons, M. Haakmeester, E. Lazare, L. Osterhout, W. S. DeVries. The following were elected: F. DeRuiter, H. Snoep, J. Zylstra, for elders; and M. Haakmeester, W. S. DeVries, as deacons. There were 43 votes.

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Minutes of the Consistory Meeting, held Nov, 20, 1911.

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3. W. S. DeVries and H. Snoep. These two brothers come to the meeting and say that they feel they are in no condition to accept the candidacy on the grounds named by them before and mentioned in the minutes. The Pres. points on to them their responsibility, but this did not cause the brethren to change their opinion. The consistory thereupon resolved the following: "The consistory have heard the decisive declination of the brethren DeVries and Snoep, and declares that it is hereby very much disappointed because such a thing should not occur in the church of Christ." With this deliverance of consistory the said brethren departed. Bro. Schilstra register a protest against the resolution taken.

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9. *Candidates.* The consistory resolved to supply the places made vacant by the resignation of two brethern by nominating new candidates. Those for elders: C. Herder and G. DeRoos. For deacons: L. Bangma and S. Roosma.

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Exhibit C. 14-A.

Consistory Meeting, held on December 19, 1911.

3. *Election.* Resolved to call together the congregation at eight o'clock P. M. Wednesday, December 27th, to vote for one elder and one deacon. This meeting shall be led by Rev. Westenberg. Further resolved to install the brethern elected, on the first Sunday in January.

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Congregational Meeting, Dec. 27, 1911.

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3. *Election.* Out of the previously stated candidates Bros. C. Herder and C. DeRoos for elders G. DeRoos was elected; and for deacons of Bros. L. Bangma and S. Roosma the latter was elected. There were 53 votes.

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Exhibit C. 14-A.

Notice of January 8, 1912, to Classis of Hudson.

Passaic, N. J., Jan. 8, 1912.

To the Classis Hudson of the Christian Reformed Church:

To the Stated Clerk of the Classis of Hudson.

Worthy Brethern:—

Hereby we inform you that the congregation Northside called together has resolved yesterday to sever her connection with the Classis of Hudson, with which action the minister has joined himself, so that both have broken the connection with the Classis of Hudson.

In the name of that meeting,

J. ZYLSTRA SISCO, *Pres.*

M. J. BAST, *Secretary.*

Exhibit D. 2.

Excerpts from Translation of the Minutes of the Northside Church.

Consistory Meeting, held January 4th, 1912.

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4. *Grievances.* At the meeting were 10 brethern of the congregation: M. Klapmuts, P. Maat, H. Bosloper, G. Nuis, D. Vander Laan, R. Spaanstra, W. Atsma, C. Snoep, J. Brouwer, to present grievances against the newly elected members of the consistory, as to installing them. The grounds for the protest were that these brethern do not come regularly to the preaching services and so do not behave themselves well and show therein that they oppose themselves to the resolution of Classis. The consistory resolved to refer to this matter later in the evening, whereupon the brethern departed.

* * * * *

7. *Grievances.* Bro. Pontier says that the accusations of the brethern are correct. The suspicion is very strong that the new consistory will oppose themselves against the acts of Classis. Bro. Schlistra says that "Classis has not done right. The Classis has given Vanden Heuvel vacation, and this was not right, the minister should be allowed to continue to preach until Synod. Now a minister from a distance has to come to preach while our own minister is shut up in the parsonage." Rev. Westenberg thereupon brought up a proposition of the following content: That the consistory shall submit itself to the acts of Classis. That if they declare themselves against, they shall be regarded as mutineers and those shall be suspended; that the old members of consistory shall remain in office until after Synod, that the consistory henceforth shall consist of eight elders and six deacons, and that the old ones shall have no part in the usual proceedings, but shall retain full right of vote in mat-

Exhibit D. 2.

ters in which they shall be invoked by the consistory of Hope Ave.; that no congregational meeting is permitted to be held except with the approbation of the old consistory members; that this proposition shall not be changed, except by the approbation of the old consistory.

Hereupon the consistory resolved to postpone the installation and submit this motion first to the judgment of this consistory, the consistory of Hope Ave., and still a third consistory. This motion stuck, with 4 against 4, whereupon Rev. Westenberg decided the vote. The choice of the third consistory and their convocation is left to the Hope Ave. consistory.

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Congregational Meeting, January 7th, 1912.

1. *Opening.* Vice Pres. of the consistory opens the meeting with prayer.

2. *Presidency.* The Secretary moves to nominate out of our own number a president, Bro. Zylstra, by acclamation; this was approved by unanimous vote.

3. *Purpose of the meeting.* The president explained the purpose of the meeting and said that it was called together in order to declare as a congregation whether or not the installation of the five newly elected members of consistory shall take place at the time legally designated therefore. If so, how and when this must take place. After a wide discussion of this point it appeared necessary that the congregation must first determine: Shall we vindicate ourselves in the existing circumstances in the Classis Hudson or not? The following thought was proposed to the meeting:

The North Side Christian Reformed Church at Passaic, N. J., declare that it cannot and must not submit to the decree of Classis Hudson made concerning this congregation and the minister, and declares that she as a congregation severs itself from the Classis

Exhibit D. 2.

Hudson; but abides by and maintains our Reformed Confession of Faith and clings to the Word of God; that she, in the prosecution of the means of grace entrusted to her, feels herself compelled to vindicate her responsibility before God. A vote was taken on this motion, with the right to give others not present a chance to sustain or oppose the same; of the 49 persons present, 46 declared themselves in favor of severance, 2 against and one held himself neutral.

4. *Installation.* Resolved by unanimous vote that we cannot submit ourselves to the illegal act taken by the consistory of January 4th, but cling to the legal decision previously taken and published (see minutes Dec. 19, 1911, Art. 3), to install the newly elected brethren on this day; that we therefore request the Rev. A. J. Vanden Heuvel to consummate this to-day, and to continue with us as heretofore; in order that we, the Rev. A. J. Vanden Heuvel, M. J. Bast, John Groenhof, F. DeRuiter, J. Zylstra, M. Haakmeester and S. Roosma, as deasons, may be declared to be legally called, elected and installed in our offices as members of the consistory of the North Side Christian Reformed Church of Passaic, N. J., in the several meetings of the congregation held for that purpose, and the elected brethren are properly installed at this request of the assembled congregation. On all the grounds, we as a congregation declare that the above named constitute the legally called, elected and installed minister elders and deacons of the consistory of the North Side Christian Reformed Church of Passaic, N. J., whom we authorized to act according to their duty involved in their office, in all matters that may occur; with the power and authority conferred upon them by law.

The Minister. The President instructs the secretary to invite the minister to come into the meeting. The secretary complied therewith, and while the minister entered the church building the congregation arose and sang Ps. 134:4. Thereupon the President

Exhibit D. 2.

explained to the pastor the resolution and request of those assembled. Thereupon the minister ascended the platform and in cordial words declared his assent and thereupon proceeded to the installation of the newly elected brethren, which was executed according to the proper stipulations mentioned in the church rules and a brief sermon on John 14:1.

This meeting and divine service was closed after prayer and Psalm singing and the benediction by the pastor.

J. SISCO, *Pres.*
M. J. BAST, *Sec.*

Congregational Meeting, Jan. 9, 1912.

1. *Opening.* The Pres., Bro. J. Zylstra, opened the meeting with prayer, after singing Ps. 84:3.

2. *Convocation.* This meeting of the congregation was lawfully called by 9 members of the congregation.

3. *Purpose of the meeting.* The Pres. explained to the meeting that it was called together for the purpose of approving and ratifying the proceedings of last Sunday, mentioned in the minutes.

4. *Minutes.* These were read, and opportunity given for corrections; all the names of the persons who had voted in favor of the resolution and also of the 5 who had later voted in favor, were read; while no adverse vote had been received. After having given complete satisfaction to all the questions that were asked the President asked for a rising vote, which disclosed that the minutes were accepted, approved and established by unanimous vote. Thereupon some questions were asked by an attorney who was present.

5. *Publicity.* The congregation resolved to leave to the consistory the publication of this matter in the daily and church papers.

6. *Close.* Rev. Vanden Heuvel closed with prayer.

A. J. VANDEN HEUVEL, *Pres.*
M. J. BAST, *Secretary.*

Exhibit D. 4.

The following is the roll of the membership of the Northside Church with the method of service of the notice of the meeting of January 9th, tabulated.

Members.	*How Served.*
W. Atsma	Personal service
Martinus J. Bast	Defendant
Christophel Bergsma	Served notice
Lieuwe Bangma	Left at residence with member of family
Hendrick Bosloper	Left at residence with member of family
Jacob Brouwer	Left at residence with member of family
Christian F. R. Clever	Personal service
Rein S. DeVries	Left at residence with member of family
Fedde DeRuiter	Left at residence with member of family
Wiebe DeVries	Personal service
Oker DeVries	Personal service
Klass DeRuiter	Left at residence with member of family
Peter F. DeJonge	Left at residence with member of family
Nanne DeVries	Left at residence with member of family
Klass DeVries	Personal service
Frank DeBeer	Served by mail
Jacob DeLeeuw	Left at residence with member of family
Hendrikus DeLeeuw	Personal service
Gerlof DeRoss	Personal notice
Herbert Freen	Personal service
William H. Grunstra	Served notice
Peter Grunstra	

Exhibit D. 4.

Members.	*How Served.*
Peter Vander Hey, Sr.	Do
Nicholas Groenewegen	Left at residence with member of family
Johannes Groenhof	Defendant
Hendrik Hoedeman	Left at residence with member of family
Johannes Hoedeman	Do
Nicholas Hornstra	Personal service
Weybren H. Heimstra	Served notice
Sjored Hannema	Personal service
Martinus Haakmeester	Defendant
Yme Harder	Left at residence with member of family
Cornelius Harder	
Hendrick Haakmeester	Left at residence with member of family
Cornelius Hattema	Do
John Hammersma	Do
Mathys Klapmuts	Do
John Klapmuts	Do
William Kuiper	Left at residence with member of family
Berend Krotje	Personal service
Paul Luiman	Left at residence with member of family
Edward P. L. Lazarrers	Do
Cent Maat	Personal service
Peter Maat	Left at residence with member of family
Cornelius Maat	Not good standing
Gezenis Nuis	Personal service
William Nyland	Personal service
Leffert K. Oosterhout	Personal service
Huibrecht Prins	Left at residence with member of family
Jetze Pruiksma	Do
W. Pruicksma	Do

Exhibit D. 4.

Members.	*How Served.*
Theodore Pruiksma	
William S. Pontier	Personal service
John A. Prins	Left at residence with member of family
Klaas Reinstra	Personal service
John A. Regnery	Do
Siebe Roosma	Left at residence with member of family
Franciscus C. Snoep	Do
Herbert Snoep	Do
Catherinus W. Snoep	Do
Reink Spaanstra	Personal service
John Schilstra	Defendant
Lambert Spaanstra	Left at residence with. member of family
Otte Spaanstra	Personal service
Samuel C. Sjerp	Left at residence with member of family
Herbertus Schoonhagen	Personal service
John Top	Left at residence with member of family
Wybren Terpstra	Do
Jacobus Ten Hoeve	Personal service
Kryn Tamboer	Do
Jacob Thomas	Under door
Jacob Verhagen	Left at residence with member of family
Cornelius Van Vliet	Do
Hendrik Van Zoest	Do
Dirk Vander Laan	Do
Leendert Visser	Personal service
Josias Visser	Left at residence with member of family
Peter Vander Hey, Jr.	Do
Johannes Verbiert	Not in good standing
Arie J. Vanden Heuvel	Defendant
Cornelius Verwey	Left at residence with member of family

Exhibit D. 4.

Members.	*How Served.*
Cornelius Vanden Handel	Do
Maarten Van Beveren	Personal service
Denman Verbiert	Left at residence with member of family
Cornelius Ph. Van Genderen	
Hendrik Van Reken	Personal service
Gerrit Veenstra	Do
Klaas Vanden Horn	Do
Hendrik Vander Groef	Do
Peter Vander Plaat	Defendant
Adriaan Van Dyk	Left at residence with member of family
Dirk Vanden Heuvel	Had personal notice of meeting.
John M. Ward	Do
Leonardus Wynbeek	Personal service
William Wallenburg	Left at residence with member of family
John Zylstra	Had personal notice of meeting
Denman Zoeteman	Personal service
Johannes Zoeteman	Left at residence with member of family

Opinion.

Filed July 14, 1913.)

IN CHANCERY OF NEW JERSEY.

Between

JOHN SCHILSTRA, *et al*,
Complainants,

and

ARIE J. VAN DEN HEUVEL, *et als*,
Defendants.

On final hearing on bill, answer, replication and proofs.

Mr. Lewis A. Allen and Mr. Andrew Foulds, Jr., for the complainants.

Mr. George H. Dalrymple and Mr. Charles B. Bradley for the defendants.

MEMORANDUM.

HOWELL, *V. C.*

The bill in this case is filed for the regulation of the affairs of the North Side Christian Reformed Church of Passaic, upon the ground that there was a misappropriation of the property and temporalities of the church society, the same having been diverted by a faction of the church from the denomination known as the Christian Reformed Church of America. The bill is filed by five individuals who bring the suit not only on their own behalf but on behalf of all members of the North Side Christian Reformed Church who are similarly situated. It alleges in short that there is a schism in the church and that a

faction represented by the defendants has seceded therefrom and joined the Reformed Church in America; that the seceders have obtained possession of the church property, and without the consent of the complainants and their adherents are attempting to carry the church property with them and place it under the control of the Reformed Church in America. They claim that this is being attempted not only against the substantive rules of law regulating affairs of religious societies, but that it has been done and is being done in an unlawful and irregular manner, and that the result is that the defendants committed a breach of their trust as trustees of the North Side congregation in despoiling it of its property. They seek a restoration of the property to the denomination to which it originally belonged, and to enjoin the defendants from intermeddling with it or its possession or use as one of the churches affiliated with the Christian Reformed Church of America.

The facts so far as they relate to the view now taken of the case will fully appear hereafter.

There is an objection raised at the outset of the case, namely, that the very point presented here was once litigated in the Supreme Court and decided in favor of the defendants, and hence is *res judicata*. After the bill had been filed, and on a motion for preliminary injunction, the Vice Chancellor before whom the motion was made directed that proceedings be taken at law, for the purpose of testing the right of the defendants to hold the offices of elder and deacon, and consequently the office of trustee, he in the meantime advising an order which has preserved the *status quo* until the final hearing. The preceeding so suggested was taken. It took the form of an order against Martinus J. Bast, John Groenhoff, John Zylstra, Frank E. Ruiter, Martinus Haakmeester and Peter H. Vander Plaat on the relation of Nick Hornstra, Herbert Priss, John Shilstra, Leonard Wynbeek and William S. Pontier, requiring them to show cause why a writ

of *quo warranto* should not issue to inquire by what warrant or authority they and each of them claimed to have, use and enjoy the offices, liberties, privilege and franchises of trustees and members of the consistory and elders and deacons of the North Side Christian Reformed Church of Passaic, and why leave to file an information therein should not be granted, and the respondents require to appear and plead or demur thereto. Depositions were taken, and on the argument the rule to show cause was discharged, with costs. In the opinion that was filed the court stated that the title of the defendants to their office was unimpeachable, that the meetings of January 7 and January 9, 1912, at which it was voted to secede from the Christian Reformed Church, were regularly called and held; that the right to secede existed, and that the case in all its essential features was akin to the case of *Pulis* vs. *Iserman,* 42 Vr. 408. The opinion proceeds upon the ground that the granting of the motion or the refusal of it is in its discretion; it consequently was dealing with a discretionary motion, from the decision of which there could be no appeal, and deciding against a motion which in the discretion of the court might be entertained again the next day. Such a situation arose in the case of *Selz* vs. *Presberger,* 20 Vr. 396. There the defendant was arrested on a *capias* issue on the order of a Supreme Court Commissioner, who adjudged that the defendant had fraudulently contracted the debt sued for and had disposed of his property with intent to defraud his creditors. Subsequently he applied to one of the Justices of the Supreme Court for his discharge upon the ground that the affidavits on which the Commissioner had made his order were insufficient. This motion was refused; thereupon he sued out a writ of *habeas corpus*; the return showing that he was detained by virtue of the *capias*, he prayed his discharge upon the same ground as that upon which he had based his application to the Justice of the Supreme Court. The

plaintiffs met him with the preliminary objection that the determination of the Justice was conclusive, but Mr. Justice Dixon held that it was not. He held that the doctrine of *res judicata* is not applicable to summary determinations by a subordinate tribunal, which are merely incidental, the decision of which not being entered upon the record, cannot be reviewed in the appellate courts. See also *Pulis* vs. *Iserman,* 42 Vr. 413. Where the effect of a judgment upon a motion is to absolutely settle rights of parties, and a review can be had, there is no doubt but that the judgment would be *res judicata.* Such was the opinion of Vice Chancellor Pitney in the case of *West New York Silk Mill Company* vs. *Laubsch,* 30 Alt. 814. There a motion was heard by the Hudson County Circuit Court to set off one judgment against another. It was refused, with costs, and one of the parties subsequently filed a bill in Chancery for the same purpose. The objection of *res judicata* was raised; the Vice Chancellor held that the former judgment of the Circuit Court was binding, and that portion of the relief which was prayed in the bill was denied; but it will be observed that in that case the original motion dealt with the rights of the parties finally, and that there was a right of review. The doctrine of the Salz case is upheld by the Supreme Court of Colorado, in *Rockwell* vs. *District Court,* 17 Col. 118; in *Scherff* vs. *Missouri Passific Railway Company,* 81 Tex. 471, 26 Am. St. Repts. 828, it was held that a judgment within the authority of *res judicata* must be a definite judgment of condemnation or dismissal upon the merits of the case. This would seem to be dispositive of the point upon reason and authority; but it will be likewise observed that the parties to the common law litigation are slightly different from the parties in this suit, and that the issues here are much broader and more various than those presented by the Supreme Court record. There the sole issue was whether *quo warranto* proceedings

should be instituted to test the title of the defendants to the offices of elders and deacons or members of the consistory of the North Side Church. Conceding that they are, the bill in this case raises the further question as to whether the defendants and a faction of the congregation, upon the facts presented, have a right to secede from the Christian Reformed Church and join the Reformed Church in America, and take the church property and temporalities with them. A mere statement of these differences is a demonstration that the doctrine of *res judicata* cannot apply to this case. The argument, however, has the support of authority.

It was said by Mr. Justice Field, in the case of *Cromwell* vs. *The County of Sac* (94 U. S., 351), that there is a difference between the effect of a judgment as a bar or estoppel against the prosecution of a second action upon the same claim or demand, and its effect as an estoppel in another action between the same parties upon a different claim or cause of action; in the former case the judgment, if rendered upon the merits, constitutes an absolute bar to a subsequent action. It is a finality as to the claim or demand in controversy, concluding the parties and those in privity with them, not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which might have been offered for that purpose. * * * But where the second action between the same parties is upon a different claim or demand, the judgment in the prior action operates as an estoppel only as to those matters in issue or points controverted, upon the determination of which the finding or verdict was rendered. In all cases, therefore, where it is sought to apply the estoppel of a judgment rendered upon one cause of action to matters arising upon a different cause of action the inquiry must always be as to the point or question actually litigated and determined in the original action—not what might

have been thus litigated and determined. Only upon such matters is the judgment conclusive in another action.

The doctrine of this case was approved by this court in *Paterson* vs. *Baker,* 5 Dick., 49, and in *Clark Thread Company* vs. *William Clark,* 10 Dick., 658. (See *Hoffmeier* vs. *Trost,* 54 Vr., 358.)

It is, therefore, quite apparent on either of the grounds above stated that the rule which was entered in the Supreme Court, dismissing the rule to show cause, cannot be held to be such an adjudication upon the merits of the controversy as will preclude the examination into the matter in the present proceeding.

It must be conceded that primarily the title to the office of elder or deacon or trustee must be litigated at common law; but it is likewise true that there is a class of cases in which courts of equity have examined the title to an office, but these are cases where there was some paramount equity to which the question of official title or authority were merely incidental. Such was the case of *Johnston* vs. *Jones,* 8 C. E. Gr., 216. There it is said by Chancellor Zabriskie that if the question of the legality of an election, or whether a certain person holds such an office arises incidentally in the course of a suit of which equity has jurisdiction, that court will inquire into and decide it as it would any other question of law or fact that arises in the cause, but that decision would be only for the purpose of the suit, and that it did not settle the right to the office or vacate it if the party was in actual possession; and he cites *Doremus* vs. *The Dutch Reformed Church, and Den* vs. *Bolton, supra.*

The complainants admit the right of these individual defendants and of the other individual members of the congregation to secede from the Christian Reformed Church and to affiliate themselves with anybody that they may choose. But can they take the church property with them and emancipate it from

the control of regularly elected trustees who are adhering to the form of church government and church authority to which the congregation was subject at the time it acquired the property?

It was held in *Doremus* vs. *The Ministers, Elders, &c.* (2 Green Chancery, 332), that "ministers, elders or deacons, lawfully elected and ordained, and thus inducted into office, though they afterwards secede, renounce the authority of the Classis and General Synod, and unite with another ecclesiastical body, do not thereby divest themselves of their offices, but that there must be a removal or resignation and a total renunciation of the office.

And it was held in the *True Reformed Dutch Church of Paramus* vs. *Iserman,* 35 Vr., 506, that as between two opposing factions of a religious association, land acquired by the association before any schism arose will remain the property of that faction which abides by the doctrines, principles and rules of the church government which the united body professed when the land was acquired.

And it was held in the *American Primitive Society* vs. *Pilling,* 4 Zab., 653, that a congregation or inferior ecclesiastical corporation which, by its organization, is connected with and subject to the superior jurisdiction of the church to which it belongs, cannot, by the act of the corporation, or a majority, secede from the denomination, declare themselves independent, and take their corporate property with them.

These cases would seem to determine that the action of the defendants and their adherents is void in so far as it attempts to subject the property in question to the control of the authorities of the Reformed Church in America, and that it was a breach of trust on the part of the defendants to assist in or connive at the transfer of the property in question from one ecclesiastical body to another without the consent and concurrence of all concerned, or without a pro-

ceeding whose validity and effect is beyond contention.

The proceeding by which this attempt was made strikes me as irregular and disorderly, to such an extent as to be voidable on the complaint of any one interested. The whole proceeding for the transfer of a portion of this congregation and the whole of its property to the Reformed Church in America took place between January 4 and January 9, 1912. Some time prior to January 4 new deacons and elders had been elected. They were to be ordained to their respective offices on January 7. On January 4 objections were made to these men or some of them and the consistory of the church determined to delay the ceremony. On Sunday, January 7, the defendant, Bast, announced at the close of the morning service that there would be a meeting of the congregation in the evening to *consider the installation* of the new elders and deacons. On the same day, and at the afternoon service, the clergyman who ministered to the congregation announced that such meeting would be illegal. Nevertheless, a meeting was held in the evening, at which forty-nine persons were present. It must be clear that this meeting was irregular, and that its action could bind no one, except possibly those who were present and acting.

The congregation at this meeting decided upon three matters by a vote of forty-six in the affirmative, two in the negative, and one not voting; they were (1) to install the newly elected officers that evening, (2) to sever the relationship of the North Side Church with the Christian Reformed Church and the Classis of Hudson, and (3) to call the defendant, Van den Heuvel, as pastor, and provide for installing him. On the following day (January 8) notice of this action was sent to the Hudson classis by a communication purporting to be signed by the president and secretary of the consistory; and on the same day the defendants took proceedings for the calling of a meet-

ing for the evening of the next day (January 9) ostensibly to ratify the illegal acts of January 7. This meeting was not called in the usual manner, by the consistory, but was called by nine persons who claimed to be members of the congregation, and who so described themselves in the notice, which reads as follows:

"Passaic, N. J., January 8, 1912.

"We, undersigned members of the North Side Christian Reformed Church of Passaic, N. J., members in full communion, call a consistory meeting to be held Thursday, January 9, 1912, at eight o'clock in the church building on the southwest corner of Myrtle avenue and Burgess place, Passaic, N. J., with the intention to decide concerning the relation in the case of severing from Classis of Hudson, and what further lawfully may be brought before the gathering."

This notice was printed, and was served some time during January 8, partly by personal service, but mostly by leaving copies at the residences of the members. The Supreme Court in its opinion declared that this meeting was a valid meeting. From that proposition I most respectfully dissent, and I do it with great reluctance, and with great deference to the opinion of that court. My reasons are (1) that it was called by people without authority, and not by the consistory, nor in the usual manner; the consistory had nothing to do with it; (2) the notice was for a consistory meeting only, while the meeting that was held was a meeting of the congregation; (3) the only matter to be acted upon according to the notice was "concerning the relations in the case of severing from Classis of Hudson, and what further lawfully may be brought before the gathering;" (4) it was called on too short a notice to be fair or to obtain a fair representation of the general body of the congregation. Most of the members of this congregation are working men, and

those who were served with notice of the meeting by leaving the notices at their places of abode could not have received the same until they reached their respective homes at the end of the day, and even then they were only notified of a consistory meeting.

I do not think that any valid action could be taken at a meeting so called and held. It is therefore clear that the action that was taken on January 7 to ordain the elders and deacons to sever the connection with the Hudson classis and to elect the Rev. Mr. Van den Heuvel as pastor of the church were irregular and could not be and were not ratified by the meeting held on January 9. It may be doubted whether the action that was taken at the meeting, January 9, had any effect whatever. The minutes state that the president explained to the meeting that it was called for the purpose of approving and ratifying the proceedings of the previous Sunday mentioned in the minutes, a much broader call than is contained in the notice of the meeting; the minutes were read and opportunity given for correction; the names of all the persons who had voted in favor of the resolution, and also of the five who had later voted in favor, were read, and no adverse vote having been received, the president asked for a rising vote "which disclosed that the minutes were accepted, approved and established by unanimous vote."

It next appears that in accordance with the church rules the matters in dispute were submitted to what is known in that denomination as a double consistory, composed of the consistory of the church in which the differences exist, and the consistory of an adjoining church; that this double consistory decided in favor of the complainants, that their action was taken up by the Classis of Hudson and there ratified, and finally these decisions were ratified by the General Synod of the whole church, which decision is made final by section 18 of the Religious Societies Act, C. L., 4316.

Opinion.

In my opinion *Pulis* vs. *Iserman* (*supra*), does not apply. In that case there was no question of notice, and the action of the congregation was unanimous.

The rules of law relating to freedom of action by independent churches and congregations are different from those rules which apply to congregations which are affiliated with and are subordinate to higher judicatories. Independent churches may do what they please with their property, provided legal action is taken to that end, but when a religious society become affiliated with other religious societies, and they unite to construct and maintain for their mutual advantage higher judicatories to which they subject themselves, then the individual society or worshipping unit holds its property and temporalities under an obligation to continue the affiliation until it can be broken by mutual consent; and if secession is attempted by a faction however large or however small, such faction will not be allowed to carry the church property with it, certainly not so long as there is a loyal body which is recognized by the superior judicatory. Such is the case here. This congregation is about evenly divided. The complainants and their adherrents are recognized by the Hudson Classis as the officers and members of the North Side Church, they have kept up the congregation and church exercises without any break. The defendants and their adherrents have attempted to secede, and are not recognized by the Classis of Hudson as having official relations with the higher judicatories of the Christian Reformed Church. The worshipping units of this denomination in a particular locality form a classis which has jurisdiction over the churches within its territory. The supreme body is a synod which has jurisdiction superior to that of the classis. This organization makes a compact and zealous body of Christian worshippers who have voluntarily bound themselves by the obligation that I have mentioned.

It is not contended that the individual members may not secede from the individual churches; it is conceded that they may; but may any faction however large secede and take with them the church property in a case where there remains a body which is loyal to the former affiliation? This question must be answered in the negative. *American Primitive Society* vs. *Pilling,* 4 Zab. 653; *True Reformed Church* vs. *Iserman,* 35 Vr. 506; *Pulis* vs. *Iserman,* 42 Vr. 408. The principle here adopted is well stated in the article on religious societies 24 Am. & Eng. of Law, 354, as follows: "In case of a schism in a church which is in connection with and a constituent part of an ecclesiastical organization, and which has a head invested by its constitution or recognized usage with other supervisory and supreme control over the constituent part to determine all questions producing schism and divisions between the members, and to recognize and decide what faction is in the right, it is a well settled law of the civil courts that the title to the property is in that part of the congregation which is acting in harmony with its own law and the ecclesiastical laws, usages, customs and principles which were accepted among them before the dispute began, are the standards for determining which party is in the right." Schnorr's Appeal, 67 Pa. St. 138, 5 Am. Rep. 415.

There remains to be considered but one question, and that is, what is the status of the defendants. They were at one time elected trustees of the North Side Church, and it was by virtue of their office as such trustees that they were enabled to obtain and hold possession af the church property, but having voluntarily severed their connection with the Christian Reformed Church, and having become members of another denomination, have they not by their own act so far renounced their trusteeship as that they can no longer represent the church society in that capacity or any longer meddle with its property and affairs? In my opinion this is the position in which they

stand. The whole proceeding looks to me like a high handed and lawless attempt to appropriate this church building and property to the uses of a faction of the congregation, every one of which has lost his membership in the church and has become a member of a church of a different denomination. While it is incompetent for this court to oust a trustee from his office as trustee of a religious society, it, however, does have the power and jurisdiction to declare that such a person has by his own act voluntarily renounced his office, and in this case that is what I believe the defendants have done. They no longer act as trustees for the North Side Church of the Christian Reformed Church of America; they are acting as trustees of a church of an entirely different denomination, and the effect of that is that they cannot be considered trustees of this society. The same thing is true of Van den Heuvel. He was under ecclesiastical censure at the time the secession took place and had been deprived of his right to minister to the congregation, which action had been sustained by the superior judicatories of the church. It was therefore unlawful for him to occupy the pulpit of that church and to accept a call to be its pastor and to officiate as the minister of the church until the ecclesiastical censures were removed. By his own voluntary act also he has renounced his connection with the North Side Church, and should not be permited to officiate as its pastor.

I must therefore hold that the complainants constitute the trustees of the North Side Church, and that they, and they alone, have authority over the church property, and that they and their adherrents constitute the religious society known by the name of the Christian Reformed Church of Passaic, New Jersey.

The decree should be for the complainants and should adjudicate that the complainants are the sole trustees of the North Side Church, and that they are

entitled as such to the custody and possession of the church property. The defendants should be restrained from intermeddling with the property or from diverting it or attempting to divert it from the denomination known as the Christian Reformed Church of America, and from retaining possession of or holding the property and temporalities of the church. Whatever may be necessary to place the complainants in full possession of the church property should be included in the decree. There should likewise be an injunction against Van den Heuvel restraining him from acting as pastor of the church or in any way ministering to the congregation as pastor.

The decree will carry costs against the defendants.

At the opening of the final hearing thirty-seven persons claiming to be members of the North Side Church filed their petition praying leave to intervene as parties complainant under the complaints' invitation to come in as such parties. The decision of the motion was postponed until the final disposition of the cause. There seems to be no reason why they should not be admitted.

Final Decree.

(Filed July 17, 1913.)

IN CHANCERY OF NEW JERSEY.

Between JOHN SCHILSTRA, *et al.*, *Complainants,* *and* ARIE J. VAN DEN HEUVEL, *et al.*, *Defendants.*	*On bill, etc.*

This cause coming on to be heard at the present regular term of the Court of Chancery, held at the State House in the City of Trenton, in the presence of Lewis A. Allen and Andrew Foulds, Jr., of counsel with the complainants, and George H. Dalrymple and Charles B. Bradley of counsel with the defendants, and the pleadings and proofs having been read and heard and the arguments of the respective counsel having been heard and considered, the Court having duly considered the pleadings, proofs, and arguments, and it appearing to the Court that the complainants are entitled to the relief sought and prayed for by them in their bill of complaint,

It is on this sixth day of July Nineteen hundred and thirteen, by Edwin R. Walker, Esquire, Chancellor of the State of New Jersey,

Ordered, Adjudged and Decreed, and the said Chancellor by virtue of the power and authority of this Court doth hereby order, adjudge and decree that the complainants, as trustees of the North Side Christian Reformed Church of Passaic, are entitled to the custody and possession of all the property and

temporalities thereof and that the North Side Christian Reformed Church of Passaic now is and at all times since its organization has been continually a church of the denomination known as the Christian Reformed Church of America and subject to the jurisdiction of the Classis of Hudson of said denomination in accordance with the doctrine, discipline and rules of said denomination and that the defendants are guilty of a breach of their trust as trustees of the church aforesaid in diverting the trust property from the purposes of the trust to which it was and is dedicated, that the said defendants have totally renounced their offices as trustees of the church aforesaid and were lawfully removed from office by the action of the competent ecclesiastical tribunals of the denomination Christian Reformed Church of America, and

It is further Ordered, Adjudged and Decreed, that the defendants, Arie J. Van den Heuvel, Nicholas Reinstra, Peter H. Van der Plaat, Martinus J. Bast, John Groenhof, Frank DeRuiter, John Zylstra Sisco, Siebe Roosma, Gerlof DeRoos, Martinus Haakmeester and Christofel Bergsma, and each of them be and they hereby are severally and jointly perpetually restrained and enjoined from intermeddling with the property and temporalities of the North Side Christian Reformed Church of Passaic and from diverting or attempting to divert the same or any part thereof from the use of the church aforesaid and the congregation thereof as a congregation affiliated with the denomination known as the Christian Reformed Church of America and from retaining possession of or holding the property and temporalities of the church aforesaid and from interfering in any way or manner with the use of the building, property or temporalities of the church aforesaid as a church of the denomination known as the Christian Reformed Church of America and that the defendant Arie J. Van den Heuvel be and he is hereby restrained and enjoined from acting as the minister of the church afore-

said or in any way ministering to the congregation of said church as pastor or from occupying the pulpit of the said North Side Christian Reformed Church of Passaic and that a permanent injunction issue accordingly, and

It is further ordered, adjudged and decreed that the defendants aforesaid forthwith surrender and deliver to the complainants the possession and control of all the property and temporalities of the North Side Christian Reformed Church of Passaic, together with all keys, books, records, documents and other property of every description of the aforesaid church, and

It is further ordered, adjudged and decreed that the defendants pay to the complainants the costs of this suit to be taxed together with the sum of fifty dollars which is hereby allowed to complainants' solicitors, and that execution issue therefor, according to the practice of this court, and

It is further ordered and decreed that the complainants be at liberty to apply to this court for further relief as occasion shall require.

E. R. WALKER,
C.

Respectfully advised,

JAMES E. HOWELL,
V. C.

Appeal.

(Filed July 24, 1913.)

(Served July 22, 1913.)

IN CHANCERY OF NEW JERSEY.

Between
JOHN SCHILSTRA, *et al.*,
Complainants,
and
ARIE J. VAN DEN HEUVEL, *et al.*,
Defendants.

On Bill, etc.

The defendants hereby appeal from the final decree and from the whole and every part thereof made in this Court in the above stated cause on the sixteenth day of July, One thousand nine hundred and thirteen, to the Court of Errors and Appeals in the last resort of all causes.

G. H. DALRYMPLE,
Solicitor of Defendants.
CHARLES B. BRADLEY,
Of Counsel.

Dated, July 21, 1913.

I conceive there is good cause for appeal in the above stated cause.

CHARLES B. BRADLEY,
Of Counsel with Defendants.

Petition of Appeal.

(Filed July 28, 1913.)

(Served July 24, 1913.)

New Jersey Court of Errors and Appeals

TO THE HONORABLE COURT OF ERRORS AND APPEALS IN THE LAST RESORT IN ALL CAUSES:

The petition of Arie J. Van den Heuvel, Nicholas Reinstra, Peter H. Van der Plaat, Martinus J. Bast, John Groenhof, Frank DeRuiter, John Zylstra Sisco, Siebe Roosma, Gerlof DeRoos, Martinus Haakmeester and Christofel Bergsma, the appellants in the above stated cause, respectfully shows that your petitioners find themselves aggrieved by a final decree made in the Court of Chancery by his Honor Edwin R. Walker, Chancellor of New Jersey, being dated the 16th day of July, in the year 1913, wherein the said John Schilstra, Nick Hornstra, Herbert Prins, Leonard Wynbeek and William S. Pontier were complainants, and the said Arie Van den Heuvel, Nicholas Reinstra, Peter H. Van der Plaat, Martinus J. Bast, John Groenhof, Frank DeRuiter, John Zylstra Sisco, Siebe Roosma, Gerlof DeRoos, Martinus Haakmeester and Christofel Bergsma were defendants, in this respect, to wit: That the said decree adjudges that the said complainants as trustees of the North Side Christian Reformed Church of Passaic are entitled to the custody and possession of all the property and temporalities thereof and that the North Side Christian Reformed Church of Passaic now is a church of the denomination known as the Christian Reformed Church of America and subject to the jurisdiction of the Classis of Hudson of said denomination in accordance

with the doctrine, discipline and rules of said denomination, and that the said defendants are guilty of a breach of their trust as trustees of the church aforesaid in diverting the trust property from the purposes of the trust to which it was and is dedicated and that the said defendants have totally renounced their offices as trustees of the church aforesaid and were lawfully removed from office by the action of the competent ecclesiastical tribunals of the denomination Christian Reformed Church of America. That the said decree orders that the said defendants and each of them be severally and jointly perpetually restrained and enjoined from intermeddling with the property and temporalities of the North Side Christian Reformed Church of Passaic and from diverting or attempting to divert the same or any part thereof from the use of the church aforesaid and the congregation thereof as a congregation affiliated with the denomination known as the Christian Reformed Church of America and from retaining possession of or holding the property and temporalities of the church aforesaid and from interfering in any way or manner with the use of the building, property or temporalities of the church aforesaid as a church of the denomination known as the Christian Reformed Church of America and that the defendant Arie J. Van den Heuvel be restrained and enjoined from acting as the minister of the church aforesaid or in any way ministering to the congregation of said church as pastor or from occupying the pulpit of the said North Side Christian Reformed Church of Passaic and that a permanent injunction issue accordingly. And that the said decree orders, adjudges and decrees that the said defendants forthwith surrender and deliver to the said complainants the possession and control of all the property and temporalities of the North Side Christian Reformed Church of Passaic,, together with all keys, books, records, documents and other property of every description of aforesaid church. And that the said

decree orders that the defendants pay the said complainants' costs of the said suit to be taxed together with the sum of $50 allowed by the said decree to complainants' solicitors. And your petitioners humbly appeal from that part of the decree of the Chancellor which decres and orders as aforesaid, upon the ground that the same is erroneous for that the said Chancellor should have ordered, adjudged and decreed that the relief prayed for by the said complainants in their bill of complaint be denied and that the said bill of complaint be dismissed with costs to the said defendants to be taxed. Your petitioners therefore pray that the said decree of the said Chancellor may be in the particulars aforesaid reversed, set aside and for nothing holden. And that your petitioners may have such relief in the premises as to this Honorable Court may seem meet.

GEORGE H. DALRYMPLE,
Solicitor of Appellants.

CHARLES B. BRADLEY,
Or Counsel with Appellants.

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Order to Show Cause.

New Jersey Supreme Court

THE STATE OF NEW JERSEY, *ex rel.* NICK HORNSTRA, HERBERT PRINS, JOHN SCHILSTRA, LEONARD WYNBEEK and WILLIAM S. PONTIER, Relators, v. MARTINUS BAST, JOHN GROENHOFF, JOHN ZYLSTRA, FRANK DERUITER, MARTINUS HAAKMEESTER and PETER H. VAN DER PLATT.	On *Quo Warranto.* Order to Show Cause.

This matter being opened to the Court, by Lewis A. Allen and Andrew Foulds, Jr., of counsel, with relators, upon affidavit read and filed and sufficient cause appearing therefor, it is on this twenty-ninth day of April, nineteen hundred and twelve, Ordered that the defendants, Martinus J. Bast, John Groenhoff, John Zylstra, Frank DeRuiter, Martinus Haakmeester and Peter H. Van der Platt, above named show cause before this Court at the State House in the City of Trenton on the first Tuesday of June, nineteen hundred and twelve at ten o'clock in the forenoon or as soon thereafter as counsel can be heard, why a writ of *quo warranto* should not issue in the above entitled cause, directed to Martinus J. Bast, John Groenhoff, John

Zylstra, Frank DeRuiter, Martinus Haakmeester and Peter H. Van der Platt, to show by what warrant or authority they and each of them claim to have, use and enjoy the offices, liberties, privileges and franchises of trustees and member of the consistory and elders and deacons of the Northside Christian Reformed Church of Passaic, returnable at a short day, to be fixed by the court, and why leave should not be granted to said Nick Hornstra, Herbert Prins, John Schilstra, Leonard Wynbeek and William S. Pontier, to file an information in the matter of said *quo warranto,* and why the said Martinus J. Bast, John Groenhoff, John Zylstra, Frank DeRuiter, Martinus Haakmeester and Peter H. Van der Plaat, should not appear and plead or demur thereto, at a short day to be named by said court, and such further order made as will expedite the hearing and determination of said cause.

It is further ordered that all parties hereto shall have leave to take affidavits and testimony before a Supreme Court Commissioner, on four days notice of the time and place of taking same, to be used on the argument of this rule.

I allow the above rule, let it be entered,

JAMES F. MINTURN,
Justice of the Supreme Court.

Entered April 30, 1912.

On motion of
Lewis A. Allen & Andrew Foulds, Jr.,
Attorneys.

A true copy.
Wm. Riker, Jr.,
Clerk.

Depositions on the Part of Relators.

NEW JERSEY SUPREME COURT.

THE STATE OF NEW JERSEY, *ex rel.* NICK HORNSTRA, HERBERT PRINS, JOHN SCHILSTRA, LEONARD WYNBEEK and WILLIAM S. PONTIER, Relators, vs. MARTINUS J. BAST, JOHN GROENHOFF, JOHN ZYLSTRA, FRANK DERUITER, MARTINUS HAAKMEESTER and PETER L. VAN DER PLATT. Defendants.	*Quo Warranto.* Depositions on the part of Relators.

Depositions on the part of the relators, taken by consent, before Edward O'Byrne, Supreme Court Examiner, on the eighth day of May, 1912, at ten o'clock in the forenoon, at the office of Lewis A. Allen, Main Avenue, in the City of Passaic, New Jersey.

EDWARD O'BYRNE,
Supreme Court Examiner.

Appearances:

For the Relators: Andrew Foulds, Jr., Esq.
For the Defendants: George Dalrymple, Esq.

Mr. Foulds: Before we proceed with the examination of the witnesses I request counsel for the defendants to state upon the record which of the defendants claim any right or assert any title to the office of franchise in dispute.

Mr. Dalrymple: Martinus J. Bast, John Groenhoff, John Zylstra, Frank DeRuiter, Martinus Haakmeester

and Peter Van der Platt; there are also the two who were elected and who resigned but whose resignations have never been accepted—Roosma and De Roos. The ones that we are interested in are six.

Mr. Foulds: It is understood that they claim the offices in dispute.

Mr. Dalrymple: Yes, as elders and deacons.

It is stipulated and agreed that the notes of the depositions may be taken in shorthand by the examiner, and that the typewritten transcript thereof shall have the same force and effect as if taken in longhand and that signatures are waived.

NICK HORNSTRA, sworn as a witness on the part of the relators, testifies as follows:

Direct-examination by Mr. Foulds:

Q. Where do you reside? A. 166 Summer Street, Passaic, N. J.

Q. Are you a member of the North Side Christian Reformed Church of Passaic? A. I am.

Q. How long have you been a member? A. Of the North Side Church, pretty near seven years.

Q. Since its organization? A. Since its organization, about seven years ago.

Q. Will you state the history of the organization of that church?

Mr. Dalrymple: We are going to question the right of these men to hold office. Is there any use of burdening the record with a lot of superfluous matter? There is no question but what the organization is completed. I object to anything outside of the petition.

A. It was in the year about 1905, that we were members of the Hope Avenue Church, and the church was getting too small and we made application, some

of us, to Hope Avenue, and they gave us leave, or rather we consulted with them whether it would not be best to start a church up our way, that is, at the northern end of Passaic. The commencement of that was in January, and from time to time we came together so that it came to the Classis—we made application there—and they gave us permission to organize a new church over in our neighborhood, and the Classis granted us our request. The Classis meeting was, I think, in the month of March in that year. So, they granted us our wish, and they appointed a committee from the Classis to organize us in a body as a church. That organization was completed, I should think, in the neighborhood of April, 1905.

Q. What denomination does the Hope Avenue Church belong to? A. To the Christian Reform Church of America.

Q. And under what denomination was the Hope Avenue Church organized? A. Under that denomination, the Christian Reformed Church of America.

Q. You have mentioned some Classis to which application was made for the organization of the North Side Church. To what Classis do you refer? A. To the Classis of Hudson.

Q. Is that Classis of the denomination of the Christian Reformed Church of America? A. That Classis belongs to the Christian Reformed Church of America.

Q. Did the North Side Church select deacons and elders at the time of its organization? A. At the time of its organization they did.

Q. Were you one of the elders selected at that time? A. I was.

Q. Did the elders and deacons so selected prepare and file a certificate of incorporation? A. Yes.

Mr. Foulds: I offer in evidence the certificate of incorporation of the Minister, Elders

and Deacons of the North Side Christian Reformed Church of the City of Passaic, dated July 21, 1905, and recorded in the office of the Clerk of the County of Passaic, July 21, 1905, in Book O of Certificates, on page 232.

Marked Exhibit R-1.

Q. Did the corporation so organized purchase real estate in City of Passaic? A. Yes; they did.

Q. Is the deed to the property they so purchased the paper which I show you? A. Yes; it is.

Mr. Foulds: I offer in evidence deed from Francis C. Van Dyk, and wife to the Minister, Elders and Deacons of the North Side Christian Reformed Church of the City of Passaic, dated March 26th, 1906; recorded in the office of the Clerk of the County of Passaic, March 30th, 1906, in Block Q-17, of Deeds, page .

Deed is marked Exhibit R-2.

Q. Does the corporation still remain the owner of that property? A. Yes.

Q. Was a church built and parsonage erected on that land? A. Yes; there was.

Q. What is the approximate value of the church edifice and parsonage? A. And the land also?

Q. Yes. A. About twenty-two thousand dollars ($22,000).

Mr. Dalrymple: I object to the question because the witness is not qualified as an expert on real estate values.

Q. Is there a mortgage on the property? A. Yes.

Q. For how much? A. There is indebtedness on the property on mortgages, one mortgage for $6,500.00 and one mortgage on the parsonage of $3,000.00.

Then we are further in debt than that. Is that necessary to mention?

Q. Is the other indebtedness a lien on the property? A. No. The property could be sold for it, though, by a judgment.

Q. For the purpose of perpetuating a line of succession in the trustees of this North Side Christian Reformed Church, were there trustees, deacons and elders elected from time to time? A. Yes, from year to year.

Q. What is the term of office of the deacons and elders? A. Two years generally.

Q. For what term are deacons and elders elected? A. They are elected for a term of two years in a regular way.

Q. On January 1st, 1912, what was the lawful number of deacons and elders of the church? A. There were then five elders and four deacons.

Q. On or about the first of January, 1910, were certain elders and deacons elected and installed? A. Yes.

Q. Who were they? A. As elders there were chosen Herbert Prins, John Schilstra and Nick Hornstra.

Q. And as deacons? A. The deacons that were chosen then were William S. Pontier, Christopher Bergsma.

Q. Were those elders and deacons duly ordained and installed in all respects in accordance with the rules of church law? A. Yes; they were. They were not installed exactly on the right time because there was objection made to their installation, and it was delayed.

Q. Tell us about those objections. A. Is it necessary to go into detail?

Q. Just state what they were. A. There was objection made against some of them, and by that the

installation was delayed to the latter part of January. They were to be installed on the first of January, but on account of the objections the installation was delayed to the latter part of January.

Q. How are deacons and elders chosen and installed in the denomination of the Christian Reformed Church of America? A. There is a Consistory that selects the candidates. They generally put a double number of those that are necessary, and make it known from the pulpit to the congregation. They get announced from the pulpit two weeks in succession, and following that the congregation comes together and elects the number necessary from the candidates that are put up. The candidates are nominated by the Consistory and get announced from the pulpit, and the congregation chooses the necessary number.

Q. Then, after the congregation has made its choice, what is the church law concerning their installation into office? A. They get announced from the pulpit two Sundays in succession. That is for the purpose that anyone that has any reason to object to their installation can come up and do so to the Consistory meeting. The Consistory in between times, have to hold a meeting so that objections can be made.

Q. Then, for this period of two weeks between the choice by the congregation and the advertised date of the installation, the Consistory is bound to hear objections to their installation or ordination, is it? A. Yes.

Mr. Dalrymple: I object to this witness going into the church law, upon the ground that the witness is not qualified on the subject.

Q. In this instance, in the early part of 1910, you say that objections were introduced between the date of the choice by the congregation and the advertised date of installation? A. Yes; there was.

Q. What did the Consistory then do? A. The Consistory delayed the installation until further investigation was made about the charges. The investigation was made with the Consistory of a neighboring church.

Q. You mean that the Consistory of the North Side Church called in the Consistory of a neighboring church to deliberate with them on these matters? A. Yes. They called in the advice and judgment of a neighboring Consistory.

Q. Between the organization of the church in 1905, and this occasion in 1910, had the Consistory uniformly followed the same practice? A. They always did. That I know.

Q. For how many years have you been an elder or deacon in the church of the denomination of the Christian Reformed Church of America? A. About eight years a deacon and seven years an elder.

Q. Are you familiar with the church law? A. Yes.

Q. Were you in the Consistory of the Hope Avenue Church before the organization of the North Side Church? A. I was for eight years.

Q. That is also a church of the same denomination, the Christain Reformed Church of America? A. Yes; the same.

Q. And it was, at that time? A. It was.

Q. About the first of January, 1911, were elders and deacons selected? A. Yes.

Q. Who were selected at that time? A. There were selected John Groenhoff, Martinus J. Bast, as elders, and the deacons were Leonard S. Wynbeek, and Peter H. Van der Plaat.

Q. They were selected and ordained in the manner which you have above described? A. In 1911, yes.

Q. In the latter part of the year 1911 were persons nominated by the Consistory to be elected and ordained as elders and deacons for the term commencing about

the first part of January, 1912? A. Yes, sir; they were.

Q. Who were so elected? A. For elders, there were chosen John Zylstra, also known as Sisco; Gerlof De Roos, Frank De Ruiter, and for deacons, were Martinus Haakmeester and Seibe Roosma.

Q. Did the Consistory submit these names to the congregation? A. They did.

Q. And what did the congregation do? A. The last election was quite late in the season. The first meeting which we had in January the installation was to take place, on the seventh.

Q. Go back to the election. What did the congregation do with reference to the names nominated by the Consistory in November or December? A. They chose them in the regular way.

Q. Did the Consistory then fix a time for their ordination? A. The Consistory, of course, announced them from the pulpit in the regular way, and after the announcement there was objection made to the installation, at the Consistory meeting on January 4th.

Q. On January 4th the Consistory then in office, held a meeting, did it? A. Yes.

Q. What took place at that meeting? A. At that time there came eleven members of the congregation with objections to the installation of the newly elected elders and deacons.

Q. Who were present at that meeting as members of the Consistory? A. I think the full Board of Consistory was present, that is, the nine members.

Q. That is, Messrs. Prins, Hornstra, Schilstra, Bast, Groenhoff, Poniter, Wynbeek, Bergsma and Van der Plaat? A. Yes; I believe they were all there.

Q. What took place at that meeting? A. The objection was made, and the decision of the Consistory was to delay the installation until it could be investigated. It was proposed to delay the installation for

at least one week so that an investigation could be made in regard to the charges.

Q. Had a date then been fixed for the installation of the newly elected deacons and elders? A. The date had been fixed, prior to that time.

Q. What was the date so fixed? A. January 7th.

Q. At what service was this installation to take place? A. At the regular service on Sunday morning.

Q. January 7th, was Sunday? A. January 7th, was Sunday.

Q. At what hour was that service held? A. At 9:30 A. M.

Q. That had been the custom of the church since its organization? A. It was the regular time.

Q. Did you attend the morning service on the morning of Sunday, January 7th, 1912? A. I did.

Q. Did any installation of elders and deacons take place at that time? A. No.

Q. Did the Consistory fix any time thereafter for the installation of these newly elected elders and deacons? A. No; the time was not fixed.

Q. By what body are the elders and deacons installed? A. By the Consistory—that is, by order of the Consistory, rather.

Q. How does that installation take place? A. The installation takes place by order of the Consistory, by word of the Minister from the pulpit, in the regular way; the regular formula is read to them.

Q. In what language are the services of the church and the records of the church kept? A. In the Holland language.

Q. Did the Consistory ever thereafter authorize the installation of the newly elected elders and deacons, to wit, Zylstra, De Roos, De Ruiter, as elders, and Roosma and Haakmeester, as deacons? A. No; that was never done.

Q. Did the Consistory have a meeting after January 7th? A. Yes.

Q. When? A. The Consistory had a meeting on January 8th.

Q. Were you present at that meeting? A. I was.

Q. What took place? A. There was a meeting of the Consistory and a meeting of the Double Consistory.

Q. Tell us what took place at the meeting of the Consistory.

Mr. Dalrymple: I object again. You should produce the minutes.

A. I will have to go back and say, why that meeting was held.

Q. I will bring that out later. Tell us what took place at the meeting of January 8th.

Mr. Dalrymple: I object. The minutes should be produced.

Mr. Foulds: I am showing what took place by one who was present.

Mr. Dalrymple: That is not the best evidence. The minute book should be produced.

A. On January 8th, there was a meeting of the Consistory of the North Side Church.

Q. What took place at that meeting of the North Side Consistory?

Mr. Dalrymple: I renew my objection.

A. Something had happened on January 7th that the Consistory of the North Side was bound to take action against some members of the Consistory and also against those newly elected ones which should be installed and which did not take place, and action had to be taken with the Consistory of the North Side and also in connection with the Consistory of Hope Avenue, a Double Consistory.

Relators' Witness, Nick Hornstra, Direct

Q. Tell us what took place at the meeting of the Consistory of the North Side on January 8th. A. At that meeting the elders, Groenhoff and Bast, were censured, at the single Consistory meeting; and at the double Consistory meeting elders Groenhoff and Bast were notified to appear at the double Consistory meeting and also deacons Van der Plaat and Bergsma.

Q. What did the Consistory of the North Side do with reference to Van der Plaat and Bergsma at the meeting of January 8th? A. Those elders and deacons had made themselves guilty of a gross sin, and the Consistory had to take action, and they were notified to appear before the double Consistory that evening to answer the charges that were made against them. As they did not appear, the double Consistory deposed them as elders, and also the deacons in the same way.

Q. Was the double Consistory held in accordance with church law? A. It was.

Q. And for what reason did the double Consistory depose them? A. For the sin of schism.

Q. Did they consider the question at that meeting of the double Consistory? A. They did.

Q. On January 9th did the Northside Consistory hold a meeting? A. They did; yes.

Q. Did they take any action with reference to John Zylstra, Frank DeRuiter, Roosma and Haakmeester? A. From memory I think that action against them was completed on January 8th, but they had taken action then—they notified these people that evening, and also they took action against other members of the congregation.

Q. Since that time have the members of the Consistory of the Northside, constituting the relators, continued to act as the Consistory? A. They always did; yes.

Q. Have they performed all of the duties usually devolving upon the Consistory? A. They have.

Q. Does the North Side church continue to hold meetings? A. Yes; right along.

Q. Where? A. In their edifice on Myrtle Avenue, corner of Burgess place.

Q. At the church services do the elders and deacons occupy certain pews set apart for them? A. Yes.

Q. At the services of the North Side Church do the relators occupy the pews set apart for the elders and deacons? A. Yes.

Q. Do they in all respects officiate in the capacity of elders and deacons? A. They do; yes.

No cross-examinaiton.

GARRIT WESTENBERG, sworn as a witness on the part of the relators, testifies as follows:

Direct-examination by Mr. Foulds:

Q. What is your profession? A. Minister of the Gospel.

Q. Of what denomination? A. Christian Reformed Church of America.

Q. How long have you been connected with that denomination? A. Since my fifteenth year, or since the year 1881.

Q. Will you tell what experience you have had in the church law and the doctrine and discipline of the Christian Reformed Church of America? A. Well, I have studied in that church ever since I entered the church, from childhood up, and I entered the Theologial Seminary in 1890, and studied there seven years and made a special study of the branch of theology and also of church government together with other branches.

Q. To what seminary do you refer? A. To the Theological School of the Christian Reformed Church of America, Grand Rapids, Michigan.

Q. Is that an institution conducted by this denomination, the Christian Reformed Church of America? A. It is exclusively so.

Q. What is the denomination—the Christian Reformed Church of America? A. That is a church grounded upon the Reformation and of the Calvanistic type up to 1618-19, when it reorganized in the Grand Synod of Dort where the three formulas of unity were accepted and laid down as the standards of that reorganized church and where the Dortsche Kerkenorde was adopted. Then after that that church has run its course until 1816 when it became united with the State, under the rule of the State, and they have run their course that way until 1834, when part of that church returned to the standard of 1816, or 1618-19, as you wish. Part of the church emigrated to America in 1847 and united here two years after, or 1849, with the Reformed Church of America conditionally. The condition was that if they would not find things satisfactory for them, they were at liberty to return at any time. They remained with the Reformed Church of America for eight years, until 1857. One part of the church found the connection unsatisfactory and returned according to the agreement of union, which is now our church.

Q. By our church you mean the Christian Reformed Church of America? A. The Christian Reformed Church of America.

Q. How is this denomination organized? A. It is organized according to the rules of Dort in Synod, Classis and Consistory. Particular synods we have not—probably on account of the church not being large enough.

Q. Has this denomination, congregations or churches throughout the United States of America? A. It has, and also in Canada.

Q. What is the immediate governing body in each subsidiary church body? A. The consistory is the governing body, provided that action is not protested by members of the congregation, who always have a right of appeal to a higher church body, and by the Classis—that is, they have a right to appeal from the decision of the Consistory to the Classis, and further, if necessary, to the Synod.

Q. What do you mean by the term "provided it is not protested"? A. Any member of any congregation has, at any time, a right to come to the Consistory and make objection to whatever the Consistory has done, and that Consistory will have to answer that member satisfactorily, or such member has a right to bring it before the higher or broader Church Court.

Q. Then, subject to appeal, the Consistory is supreme in each church? A. It is.

Q. What is the body superior to the Consistory? A. The Classis in so far as any appeals have been entered for discussion, in so far as the Classis has come together with members of the various Consistories to take action on any matter which come before that Classis.

Q. How is the Classis organized? A. The Classis is organized by two members, a minister, if there is one in such Consistory, and an elder, who are lawfully delegated with lawfully made credentials, and they are then permitted to act according to the three formulas of Unity and the rules of Dortsche Kerkenorde.

Q. The Classis is the superior church judicatory over a certain number of Consistories? A. As far as they are delegated and represented with that Classis.

Q. And over the Classis, is what superior body? A. In our church it is only the General Synod, since we have no Particular Synod as yet.

Q. The General Synod is the supreme church judicatory? A. It is.

Q. Have you occupied the position of stated clerk of any Classis?

Mr. Dalyrmple: Objected to as leading.

A. I have.

Q. Of what Classis? A. Of the Classis of Hudson.

Q. What is the jurisdiction of the Classis of Hudson? A. The jurisdiction of the Classis of Hudson is the same as the other Classis, and that is, over the Consistory with the same power that the Synod has over the Classis.

Q. What is the territorial jurisdiction of the Classis of Hudson? A. State of New York, State of New Jersey, State of Massachusetts, and all the New England States.

Q. To the jurisdiction of what Classis is the North Side Church subject? A. To the Classis of Hudson.

Q. During what time have you acted as stated clerk of the Classis of Hudson? A. For nearly eight years.

Q. You are the minister of the Hope Avenue Church of that denomination? A. I am.

Q. Is the Hope Avenue Church the next adjacent church to the North Side Church? A. It is, in that Classis.

Q. Have you a translation of the rules of Church Government as laid down by the Synod of Dort, in 1816-'19? A. An English translation, I have not.

Q. I show you a book. What is this book? A. That is the English translation of the Dortsche Kerkenorde in the first part, which I presume is literal, then, there is an appendix which holds for the Classis of Hackensack of the True Reformed Dutch Church, united with the Christian Reformed Church in the '90's, and that appendix has been granted to this

church by the General Synod, but it holds for the churches of the Classis of Hackensack only.

Q. Is that of the denomination of the Christian Reformed Church of America? A. It is at the present day, since the union in the '90's, but it does not hold for any of our other Classis.

Q. This book is not then an official translation accepted by the General Synod at the Christian Reformed Church of America? A. The first part, I think is, but not the appendix, only it has been granted to that Classis of Hackensack, and is official for that Classis but not for any other Classis in the denomination.

Q. Is it not official for the North Side Church or the Hope Avenue Church? A. It is not.

Q. The translation of the Articles of Dort, to which you refer, are the first twenty-four pages of this book, are they not? A. Yes, sir; the twenty-four pages.

Mr. Foulds: I offer in evidence the first twenty-four pages of this book?

Mr. Dalrymple: I have no objection to that.

Marked Exhibit R-3.

Mr. Foulds: It is stipulated that only such part of this exhibit and other exhibits may be presented, as shall be agreed upon, but that the original exhibits may be used on the argument before the Supreme Court.

Mr. Dalrymple: That is satisfactory to me.

Q. Have you knowledge of the approval by the Classis of Hudson of the organization of the North Side Church? A. Yes, sir; I have.

Mr. Dalrymple: I think the record should be produced.

Q. Was that church organized with all respects in accordance with the laws governing that denomination? A. It was.

Q. What is the scope of the authority of the Consistory of a church of this denomination with reference to the trusteeship of temporal properties? A. By the "scope" you mean the extent?

Q. Yes. A. It is in regard to all temporalities of that church.

Q. The Consistory holds all the temporalities of the church as trustee for the congregation? A. Yes.

Q. Were you, at any time, authorized to act in the Consistory of the North Side Church, in any manner? A. I was.

Q. In what manner? A. Well, Classis appointed me as—what they call—consulent or counsellor for that Consistory.

Q. As such, what was your duty? A. My duty was to give the Consistory all possible counsel and act as president of the Consistory, and also at the meetings of the congregation.

Q. Was this during the period of the disability of the minister of that congregation? A. No; not formerly. It was before the minister was deposed; it was when the Consistory of the Hope Avenue Church was called to act in connection with the Consistory of the North Side Church.

Q. During this period there had been some disagreement with reference to the Minister of the North Side Church? A. There had; yes, sir.

Q. Is that the reason you were appointed consulent? A. It was.

Q. As consulent did you participate at any of the meetings of the Consistory? A. Yes, sir.

Q. Was that with the consent of the members of the Consistory of the North Side Church? A. It was at the call of the members of the Consistory of the North Side Church.

Q. Did you attend a meeting of the Consistory of the North Side Church held on January 4th, of this year? A. Yes, sir.

Q. Will you tell what took place at that meeting? A. At that meeting there were members of the congregation present—if I am not mistaken, eleven members. They objected to the installation of the chosen candidates, and, after some discussion, the Consistory voted on the question of the installation and decided to postpone that installation, by five votes to three votes, while one was silent, until that matter could be properly investigated. Thereupon, the question came up: Well, we might call the Third Consistory to advise in this matter? That was discussed for some time and voted upon, which vote stood four to four, one silent. Then, I being the president *pro tem.* at that meeting, said, "Well, then, the decision will have to be on my part, and I would rather not take that responsibility upon me alone. So I will decide to call in a Third Consistory from Paterson.

Q. Was that latter action, with reference to the delay of the installation, or only with reference to calling in the third Consistory? A. That is all.

Q. The matter of the delay of the installation had been decided without any question? A. Yes.

Q. Does a majority of voices in the various assemblies, the Consistory, the Classis and the Synod, control? A. The majority; yes, sir.

Q. What is the church law with reference to the selection and installation of deacons and elders? A. The Consistory has that in hand, whether the Consistory itself shall choose and have the congregation approve, or leave it to the congregation to choose and approve; that is at the discretion of the Consistory.

Q. Do you know in what manner the Consistory of the North Side Church exercised its discretion with reference to the selection of elders and deacons, about the first of the year, 1912?

Mr. Dalrymple: I object to the question, because the witness is not a member.

A. I have helped organize that church and was a member of a committee to organize it, from Classis. We had begun, in the first meeting, to choose the elders and deacons according to the custom which is prevailing in our church—that is, the congregation chooses—and as far as I know, that has been the custom in that local church up to the present date.

Q. That is, the Consistory nominates a double number from which the congregation chooses? A. The Consistory nominates a double number, and the double number is presented to the congregation, and the congregation meeting is called at a certain date, and then the congregation chooses from that double number.

Q. What is the authority vested in the persons so chosen by the congregation, at that time? A. No authority whatever, at that time.

Q. When does their term of office commence? A. It commences when they are properly installed in a regular service of the congregation, according to the form in our church rules.

Q. By what body does this confirmation take place, and in what manner? A. The Consistory always confirms by the minister of the Gospel in a regular meeting of the congregation or church service.

Q. After this election of the new elders and deacons is a time fixed for their confirmation? A. It is always announced for the purpose of the congregation to make any objection if necessary, and then, if nothing happens, the Consistory continues in confirmation.

Q. Is there a stated period for the publication of the proposed confirmation? A. It should be two weeks—two Sundays, at least.

Q. In the event that, during this period of two weeks, some objection is interposed, what is the duty of the Consistory? A. To look into that matter and not permit the installation, until the Consistory is satisfied that these reasons are not lawful.

Q. In your opinion, was it lawful for the Consistory of the North Side Church, on January 4th, to delay the confirmation of the newly elected elders and deacons? A. It was.

Q. Why? A. Because objection had been raised and the Consistory found that there were objections that should necessarily be looked into before the confirmation could take place.

Q. Does the form of confirmation contain any reference to objections? A. It does.

Q. What is that reference? A. It begins, "Beloved Brethren, you know that we have several times"—the custom is two times, two Sundays is sufficient, but it says, "several times"—"published unto you the names of our Brethren here present who are chosen to the offices of elders and deacons in this church, to the end that we may know whether any person hath aught to allege why they should not be ordained in their respective offices; and, whereas, no one hath appeared before us, who hath alleged anything lawful against them, we shall therefore at present, in the name of the Lord, proceed to the ordination."

Q. Is it lawful for the Consistory to proceed to ordain newly elected elders and deacons, when objections are pending? A. They may not do so.

Q. Do you use the word "may" in a permissive sense? A. Not in the permissive, but in the obligatory sense.

Q. They must not do so? A. They must not do so.

Q. Do the elders and deacons in churches of this denomination subscribe to a formula? A. They do.

Q. Have you an official translation of that formula of subscription? A. I have; yes, sir.

Q. Will you please produce it? A. We have it in our "Acta" of Synod of the Christian Reformed Church, held on 15th to 24th of June, 1910, at Muskegon, Michigan. It is there found on page 133, in the

appendix No. 13, report of the committee for the translation of the church rules which has been later adopted by the Synod.

Mr. Foulds: I offer in evidence pages 133 and 134 of the book produced by the witness. Marked Exhibit R-4.

Q. What method is provided by the church laws for the trial of offenses? A. First, the Consistory tries the offense, and if the Consistory, officially by a majority of votes, says that these objections are illegal, they are put from the table, unless a protest or appeal is entered to a higher church court.

Q. What do you mean by the expression "put from the table"? A. They are simply not acted upon any further, and they simply continue to install the deacons and elders.

Q. What church body is provided for the trial of offenses committed by elders and deacons? A. A double Consistory is necessary for offenses of elders and deacons who have been installed lawfully.

Q. How is this double Consistory called? A. Well, we always call it a double Consistory.

Q. I mean, how is it assembled? A. The two Consistories come together and a president *pro tem.* is elected; also a secretary is elected; and that constitutes the double Consistory.

Q. Who makes known the desire to assemble the double Consistory and in what manner? A. The Consistory calls in another Consistory to unite with them in regard to the objections raised.

Q. Were you present at the meeting of the double Consistory composed of the Consistory of the North Side Church and the Consistory of the Hope Avenue Church held on January 8th, last? A. I was.

Q. How was that double Consistory assembled? A. The objections had been raised in that meeting of the

fourth of January, and action had taken place on Sunday. Thereupon, when the Consistory, by majority of vote, of North Side, found that to be contrary to the rules of the church and found it necessary to take legal action, and also found it necessary to unite with the adjacent Consistory of Hope Avenue consequently, that double Consistory was called to convene at the North Side Church edifice.

Q. Was that calling or assembling of the double Consistory in accordance with the church laws? A. Yes.

Q. What notice is it necessary to give to persons to be tried at such a double Consistory? A. Why, they are naturally present as members of the Consistory, and no further notice is necessary.

Q. At that double Consistory did the assembly proceed to investigate the charges against Messrs. Bast, Groenhoff, Van der Plaat and Bergsma? A. They did.

Q. And what action did the double Consistory take? A. First, because these members were not present at that double Consistory, they considered they ought first to notify them, although they knew of the double Consistory and should have been present, and they did notify them, and no one appeared to raise any objection to the action of the double Consistory nor to appeal to a higher church court; consequently, the double Consistory proceeded to depose these men, according to Article 79, immediately.

Q. Was that in accordance with church law? A. It was.

Q. And were they duly deposed in the manner prescribed by the church law? A. They were.

Q. It has been testified that certain members of the church, to wit, Messrs. Zylstra, De Roos, De Ruiter, Roosma and Haakmeester, who had been theretofore chosen to fill the offices of elders an deacons, upon their subsequent confirmation, were censured by the

Consistory of North Side Church. What was the effect of that censure? A. That censure has this effect—that they have no longer a right to vote in the congregation and no longer any right to act as office bearers if they were in office.

Q. What remedy is afforded to persons who consider themselves aggrieved by the action of one of these assemblies in your church? A. They have all, the right of appeal to a higher church court.

Q. Is it the custom of a higher assembly to consider such appeals? A. It is.

CROSS-EXAMINATION by Mr. Dalrymple:

Q. You say that the Christian Reformed Church starts from the Reformation? A. Yes.

Q. That is, as organized today? A. No, sir.

Q. Then, in giving your history of the Christian Reformed Church you embody in that the present Reformed Church in America, don't you,—the same rules govern? A. Oh, yes; that is, the rules of Dort, not the rules of the Christian Reformed Church.

Q. The Reformed Church in America and the Christian Reformed Church use the same catechism do they not? A. I think so.

Q. The three forms of unity are the same? A. No, sir.

Q. What is the difference? A. The difference is that in the Canonus of Dort the last half of each of the five articles has been erased by the Reformed Church.

Q. What do you mean by "The Reformed Church"? A. The Reformed Church of America.

Q. So that the forms of worship in the two churches are almost identical? A. Why, as far as I know, they are.

Q. When a double Consistory is called in, is the adjacent Consistory entitled to a vote? A. Yes, sir.

Q. Now, how was this double Consistory called in to the North Side Church for the January 4th meeting; what notice did you give? A. By the Consistory of North Side I was called, but that was not a double meeting.

Q. What notice did you receive; how was it started? A. From the Consistory, by order of Mr. Bast who wrote me a postal, the secretary wrote me a postal.

Q. For a double Consistory meeting? A. No; not for a double Consistory. You referred to the meeting of January 4th.

Q. I am asking you how you came to be there as a double Consistory. Why were you at the meeting of January 4th? A. I was there because the Consistory of North Side invited me to be present.

Q. What capacity? A. I simply came there. The chair was given to me by a majority of vote.

Q. Does that entitle you to a vote in that Consistory? A. Any president of any Consistory has the right of acting and has no right of any regular vote but only of the decisive vote if the vote is equal.

Q. What protest was presented that night in reference to the newly elected Consistory members? A. There was objection raised by the members of the congregation.

Q. Was there any written protest? A. No.

Q. Didn't you have prepared and presented at that meeting a written protest? A. No, sir.

Q. Then, you have presided over the Consistory of the North Side Church? A. Yes.

Q. Didn't you say, over your signature in the local press, that you never presided over it? A. No, sir.

Q. In rescinding the vote for the installation of the officers, how many votes would it take; in rescinding the vote of the North Side Church to install the of-

ficers, how many votes would it take? A. You mean to postpone?

Q. In rescinding the vote of the North Side Church to install the officers, how many votes would it take? A. I would like to have an explanation of the word "rescinding;" I do not understand the meaning of the question.

Q. There was a vote taken to rescind the former action of the Consistory, was there not, in reference to the installation? A. It was decided at that Consistory meeting to postpone the installation.

Q. What was the form of the motion? A. Simply a motion to postpone until we investigate this matter.

Q. Now, then, in that action to postpone, how many votes would it take to postpone—a majority or two-thirds? A. A majority.

Q. That is the rule, is it? A. Yes.

Q. Was there any question about the election of these five Consistory members? A. No.

Q. As far as you know they were legally elected? A. Yes.

Q. Now, in reference to the installation, you have given a form which the Consistory members must sign before installation. Supposing that form was not used, what would be the result? A. If that form was not used, and as long as there was no objection raised—

Q. (Interrupting.) I am not asking about the objection; I am asking about the form? A. Well, the form must be subscribed.

Q. Do you know that when the five new Consistory members were installed, whether they did or did not subscribe to that form? A. I don't know of any installation of these five men.

Q. You don't know whether they did or did not? A. No.

Q. When a trial of a member for any insubordination of any kind takes place, how many days notice must be given to require the member to appear for trial? A. There is no fixed time set. He is simply called, and acted upon immediately.

Q. In reference to the censure; is there not more than one step or stage of censure? A. Yes.

Q. What is the result of the first step? A. That all right of vote is taken away, and they have no right to the sacraments for the time being.

Q. And that is all? A. No. Legal action within the church is taken away. It is impossible for me to describe it.

Q. What do you mean by "legal action"? A. The right to appear in full communion.

Q. How would that affect men who were elected members of the Consistory? A. It simply would be impossible to install him.

Q. Well, after he had been installed? A. It would put him out of office, out of commission, until the censure had been removed.

Q. What would be the result of the second step of censure? A. No other than the first one, only in the second step the name is publicly mentioned.

Q. In the first step the name is not mentioned? A. No.

Q. How do the congregation know whether they are acting or not acting? A. The Consistory have got to look after that.

Q. Then, in reference to the calling of a meeting together there is no time set? A. No.

Q. Or of the meeting of the church? A. Well, we have our regular Sunday meetings at the time set in the morning and in the afternoon, and some churches also have an evening meeting.

Q. How long notice would it take to call a meeting of the congregation? A. Two weeks—two Sundays.

Q. Of an election? A. Yes; it is announced on Sunday.

Q. Is it not often that a meeting of the congregation is called in the morning and held on the evening of the same day? A. No; not any legal meeting for any legal action.

Q. I show you page 86 of the church manual of the True Reformed Dutch Church, General Synod of 1829-'30. Is this a Synod that governs you? A. No, sir. We were not in existence at that time—1829.

Q. Is not that the Synod that you are working under at the present time? A. No.

Q. Under what synod are you working? A. Under the Synod of 1618-'19, Synod of Dort and then beginning in 1859 in America, with the Synods and Classis since then.

Q. When did the True Dutch Church and the Christian Reformed Church unite? A. My memory in regard to dates is a little weak, I think it was 1892.

Q. What rules have you got laid down by the Synod governing your actions? A. All the Acta of every Synod that is held.

Q. If it does not appear in the Acta, what do you refer to then as the church law? A. The amendments that are being made by the various Synods to the rules of Dort.

Q. And that would embrace this (indicating book, Exhibit R-3)? A. No; only the first part; nothing of the back part of that book.

By Mr. Foulds:

Q. Have you an official copy of the Dordtsche Kerkenorde? A. Yes.

Q. Will you please produce it? A. Yes.

Q. What is this book which you produce? A. This is the book that has been accepted by the General Synod of the Christian Reformed Church of America to govern our church in general and in particular.

Mr. Foulds: I offer the book in evidence.

Book is marked Exhibit R-5.

Mr. Foulds: It is stipulated that this exhibit need not be printed.

Dalrymple: No; you need not print that book.

Q. Have you made a translation of the minutes of the Classis of Hudson? A. I have translated parts of the minutes. That translation was made from the minutes, as they had not been before the session for adoption. The following session has to adopt the minutes and they are revised and corrected if necessary.

Q. Is this paper which you produce a correct translation of parts of the minutes of the Special Classis held on January 11th, 1912? A. A couple of corrections have been made by the Classis on the adoption of the minutes at the last session.

Mr. Foulds: I am through with the examination of this witness, subject to recalling him as to the minutes and his translation of the minutes.

WILLIAM S. PONTIER, sworn as witness on the part of the relators, testifies as follows:

Direct-examination by Mr. Foulds:

Q. Where do you reside? A. No. 83 Clifton Avenue, Clifton, N. J.

Q. Are you a member of the North Side Christian Reformed Church? A. I am.

Q. How long have you been a member? A. Almost four years.

Q. Were you elected and installed as a deacon of that church? A. I was.

Q. When? A. I believe the first Sunday in January, 1909, and I was re-elected and installed in January, 1910.

Q. Were you elected secretary of the North Side Christian Reformed Church? A. I was.

Q. Are you one of the relators in this case? A. I am.

Q. Are you acquainted with the other relators? A. Yes.

Q. Are they all members of the Christian Reformed Church?

Mr. Dalrymple: I object upon the ground that this witness is not qualified to answer.

A. Yes.

Q. You have examined and are familiar with the church roll? A. I am familiar with it.

Q. Did you and the other relators receive a petition from certain members of the North Side Church? A. Yes, sir.

Q. Do you know where the original petition is? A. It is in the papers of the Court of Chancery in the case of John Schilstra, *et al.* vs. Arie J. Vandenheuvel, *et al.*

Mr. Foulds: I offer in evidence this paper as a copy of the petition without the signatures.

Mr. Dalrymple: I object because the copy does not show the names of the signers.

Paper is marked Exhibit R-6.

Q. That petition was signed by one hundred and nine adult members of the church? A. Signed by one hundred and nine adult members of the church.

Q. Were you a member of the Consistory of the North Side Church on January 4th, 1912? A. I was.

Q. Did you attend a meeting at that time? A. I did.

Q. Will you state what took place? A. The meeting of January 4th, was opened by prayer by Brother Groenhoff. Shortly after opening the Rev. G. Westenberg entered, and the vice-president offered him the chair, and after the meeting had been opened and other business conducted, not connected with this case, eleven members appeared at the meeting and objected to the installation of the newly elected elders and deacons, and thereafter the consistory considered the objections and looked into the matter, and they decided that they were worthy of investigation. It was decided to postpone the installation, which would ordinarily have taken place on the following Sunday, namely, January 7th. That resolution was carried by a vote of five to three, Deacon Bergsma not voting. Thereafter a resolution was passed to notify the Hope Avenue Consistory and a third Consistory, leaving Hope Avenue to name the third Consistory, to meet with us on an evening in the following week to investigate these charges and take action thereon.

Q. In what language are the minutes kept? A. They are written in the Holland language.

Q. Are all the transactions of the Church and Consistory in that language? A. They are.

Q. At what time is it customary to ordain and install the newly elected elders and deacons—at what hour? A. It is always customary to install newly elected elders and deacons at a regular church serv-

ice, which services, in our congregation, were always on or about nine-thirty A. M. and two P. M.

Q. On January 7th, 1912, were services held at those hours? A. They were. From nine-thirty A. M. until about eleven A. M., and in the afternoon from two P. M. until between three-thirty and three-forty-five P. M.; church was dismissed between that hour.

Q. Was any installation of elders and deacons held at either of those services on January 7th, 1912? A. No, sir.

Q. To what date did the Consistory decide to postpone or delay the installation? A. Until the charges had been investigated and acted upon.

Q. Did the Consistory of North Side Church hold a meeting after January 4th? A. Yes, sir.

Q. And what was done? A. The Consistory of North Side had a short meeting before each service and then a regular meeting on the eighth day of January. Which do you refer to?

Q. What was done on the eighth of January? A. The meeting was called to order and opened in the regular way, and it was decided by unanimous vote that the Rev. G. Westenberg act as president of the meeting. It was then decided that in as much as Mr. M. J. Bast, the secretary, was not present, that I act as secretary *pro tem,* and then it was also decided at that meeting to adjourn and meet with the Hope Avenue Consistory as a double Consistory that same evening.

Q. Were you present at the meeting of the double Consistory? A. I was.

Q. What was done at that meeting? A. At that meeting the Rev. Westenberg was unanimously elected president and I was unanimously elected secretary, and charges were preferred at that meeting against Elders M. J. Bast, John Groenhoff, and Deacon Van der-Plaat and Bergsma that they had committed a gross

sin, which was punishable according to the church laws; and in as much as these men were absent from the meeting, although they had received notice of the same on Sunday afternoon at the meeting before the church service, when it was announced that the double Consistory would be held on Monday evening, January 8th, and they had not raised any objection thereto, the double Consistory thought it best, in as much as certain members of the double Consistory had advised that they believed these persons at present nearby, that they be notified, in writing, that the meeting had been called to order in the usual way, and that they were ready to hear the charges which were preferred against them, and requested them to be present. Double Consistory having waited a considerable length of time, considered the charges preferred against the said persons, and they deposed the elders M. J. Bast and John Groenhoff, and the deacons Peter H. Vander Plaat and Christopher Bergsma on the grounds of mutiny and open rebellion and schism, according to Article 79, D. K. O.

Q. Did the Consistory of North Side at any time pass on the complaints against John Zylstra, Gerlof De Roos, Frank De Ruiter, Roosma and Haakmeester? A. They did.

Q. When? A. At a meeting held January 9, 1912.

Q. What was done with reference to it? A. At that meeting it was decided to place the members J. Zylstra, also known as Sisco, F. De Ruiter, Gerlof De Roos, Seize Roosma and M. Haakmeester under the first step of church censure, on the ground that they had committeed schism in the congregation.

Q. Has that censure been removed? A. Never.

Q. Has the action of the double Consistory in deposing Bast, Groenhoff, Van der Plaat and Bergsma been rescinded or altered? A. Never.

Q. It is still in full force and effect? A. It is.

Relators' Witness, William S. Pontier, Cross

Q. Have you received notice of any appeal by either of these parties to higher church authority? A. No, sir; I have not.

CROSS-EXAMINATION by Mr. Dalrymple:

Q. What was the nature of the protest against the newly elected members of the Consistory of the North Side Church at the meeting of January 4th? A. The nature of the protest was that they had committed a sin.

Q. On January 4? A. That is what I am speaking about—that they had committed acts which, in the opinion of the complaining members, made them unqualified to hold office in the church.

Q. Have you got the original of the complaint? A. The complaint was made orally.

Q. It was not made in writing? A. Not in writing; it was not required.

Q. I am asking you what did happen. You say it was made orally? A. Orally.

Q. Now, was there any protest presented by the Rev. Westenberg at that meeting? A. No, sir.

Q. No written protest? A. No, sir.

Q. Are you sure about that? A. I am sure about it.

Q. Were you the secretary acting at the meeting of January 4th? A. No, sir.

Q. What are these minutes that you are reading of the meeting of January 4th? A. After the elders, Bast and Groenhoff, had been deposed, the Consistory held second meeting that same evening of January 8th, after the double Consistory meeting—

Q. (Interrupting.) I am asking you about these minutes of the meeting January 4th. A. I am answering you. On January 8th, after the double Consistory meeting, there was a second meeting of the

North Side Consistory, and a resolution was adopted that in as much as the elder, Bast, had been deposed, who was the secretary, it was decided to proceed with electing a permanent secretary, and I was then and there elected secretary of the Consistory. The Consistory requested that I write up minutes of the proceedings of January 4th, and following out their request I proceeded to write the minutes, and the Consistory consisting of the following five members, Nick Hornstra, John Schilstra, Herbert Prins, Leonard Wynbeek and William S. Pontier, by unanimous vote, adopted the minutes so prepared. These five persons were five of the nine persons at the meeting of January 4th.

Q. Then these minutes are not official? A. That is not for me to decide.

Q. You were not the secretary of that meeting? A. I answered that question once.

Q. You can say yes or no. A. I have answered that question.

Q. Were you secretary of that meeting of January 4th? A. No.

Q. You say that the installation of the newly elected Consistory members every year is held on the first Sunday in January; is that correct? A. No, sir.

Q. Eh? A. "On or about" I intended to say.

Q. Is it not, as a matter of fact, always held on New Years eve? A. No, sir. The installation of January, 1910, was postponed until the last Sunday in January of that year.

Q. Was not that postponement on account of the Consistory going out and electing a new Consistory—another new Consistory? A. It was not postponed on that account.

Q. What was it postponed for them? A. I cannot remember exactly. There were various complications in the congregation at that time, and I am

not positive as to just what caused the postponement.

Q. Was not a row in the congregation a cause of the postponement? A. Not to my knowledge.

Q. What was it then? A. As I said before, I am not clear on the subject at this time.

Q. Was not that the cause of the objection at the meeting of January 4th? A. What?

Q. The disturbance in the congregation? A. No, sir.

Q. What was it then; what was the objection? A. The complaint by the eleven members was that the newly elected candidates did not attend church services regularly and did not set an example to the congregation as becoming office bearers.

Q. Were any of these objections made before they were elected? A. No, sir.

Q. When were they elected? A. In November or December, 1911.

Q. Do you know the exact date in November? A. No, sir.

Q. Was it not November 15th? A. I cannot remember the exact date; I do not want to guess at it.

Q. In the early part of November, was it? A. I believe it was about the middle of November, but—

Q. And then all of that time intervened between November 15th and January 4th, and no objections had been made? A. Not to my knowledge.

Q. Did not that seem strange in your mind? A. No.

Q. Why? A. Because prior to that time these people had attended church services regularly.

Q. Then, this complaint was false, was it? A. No, sir.

Q. You say they had, and now you say they had not? A. When I say "regularly" I mean prior to their election, but not thereafter.

Q. Then they had only attended irregularly from the time of their election up to January 4th; is that right? A. If I remember right, that is about what the complaint was.

Q. That was a sufficient ground to prevent installation, was it? A. The Consistory considered it sufficient ground to postpone the installation in order to investigate the charges made by the members of the congregation, which the Consistory may not pass without investigation.

Q. Did you, as a member of the Consistory, believe that charge? A. I did, truly.

Q. Didn't you know that these people were opposed to the newly elected members of the Consistory because they were favorable to Mr. Vandenheuvel? A. I don't know anything of the kind.

Q. You did know it, didn't you? A. I did not. I may state there when I answer that I did not—as a member of the Consistory I had to act on the charges presented and not go by my own knowledge.

Q. Had you seen these men against whom these charges were preferred, at church between that time from November 15th to January 4th? A. Once in a while.

Q. How many Sundays are there between November 15th and January 4th? A. I would have to get a calendar and look it up.

Q. You don't need a calendar very much for that. You say that at the meeting of January 4th they passed a resolution to call in an adjacent Consistory? A. They did.

Q. Did they do the same thing on January 8th? A. They decided to adjourn and meet with the Hope Avenue Consistory.

Q. Who composed this so-called Consistory of North Side Church that you speak of at the meeting of January 8th? A. I gave the names of the five members before, didn't I?

Q. They were the five holdover members, were they? A. John Schilstra, Nick Hornstra, Herbert Prins, as elders, and Leonard Wynbeek and William S. Pontier as deacons.

Q. Now, the five newly elected members were to take the place of the five whom you have mentioned? A. No, sir.

Q. The terms of these five members would have expired on January 1st? A. No, sir.

Q. Why not? A. Because Mr. Wynbeek had another year.

Q. The terms of the other four would have expired? A. Four of them would, if their successors had been installed in their place.

Q. Then the terms of four of those who were present at that meeting would have expired on January 1st? A. If their successors had been installed in their place.

Q. That is your opinion? A. That is my answer.

Q. Now, then were there five members of the so-called North Side Consistory present at this meeting? A. When?

Q. On January 8th? A. There were five members of the Consistory present at that meeting, as stated before.

Q. Then, you state that the notice given to these four men against whom charges were made was the notice you gave them directly from the meeting of January 8th, on that same night? A. Yes, sir.

Q. That is all the notice that they received? A. No, sir.

Q. What other notice did they receive? A. On Sunday they were advised that the Consistory which had been decided on, January 4th, would be held on Monday evening, January 8th; the entire Consistory of nine members were then present, and they knew about it, and no objection was made.

Q. But they did not receive any written notice that they were to be put on trial? A. Not at that time.

Q. The only written notice they received was from the meeting on January 8th? A. That is the only written notice.

Q. They were deposed on January 8th? A. They were.

Q. What notice did the members who were put under the first step of censure receive? A. They did not have any notice; they were notified of the fact in writing that they were placed under the first step of the censure.

By Mr. Foulds:

Q. What notice is it necessary to give to any member of the church before proceeding to place him under the first step of censure? A. That depends on the ground for placing him under censure. In other words, if charges were made affecting an injury to a single member of the church, the Consistory would have to hear the charges in the presence of both parties and go into the matter. In the case of public schism which is an injury to the entire church, no notice is necessary to be given.

Q. Do you recollect any church rule with reference to the taking of action against those who are guilty of offences? A. Article 79 speaks of immediate action in the case of those guilty of gross sin, which is scandalous to the church.

Q. When the double Consistory acted upon these charges and deposed these elders and deacons on January 8th, did they have before them any charges other than the first charges that were presented at the meeting of January 4th? A. They did.

Q. Were the charges of January 4th, to which you have referred, the charges upon which these elders and deacons were deposed? A. No, sir; the charges

on January 4th were against the ones that were elected.

Q. The double Consistory, at the meeting of January 8th, considered other charges, did they? A. Yes, sir.

Q. And did they decide that they were sufficient to justify immediate removal under Article 79? A. They did.

By Mr. Dalrymple:

Q. Who preferred the charges that you speak of on January 8th? A. Mr. Hornstra.

Q. What were they? A. Mutiny, open rebellion and schism.

By Mr. Foulds:

Q. Some time after the action deposing these elders and deacons on January 8th, did the Consistory give a further opportunity to the deposed elders and deacons to be heard? A. They did.

Q. What was the length of that notice? A. Three days, from the morning of April 24th to the evening of April 26th.

Q. Were written charges served on them? A. They were.

Q. Did these men appear in opposition to the charges? A. They did not.

Q. Did the double Consistory attend at the time named in that notice to reconsider these charges? A. They did.

Q. Was the action of the double Consistory submitted to the Classis of Hudson? A. It was.

Q. What action was taken by the Classis of Hudson; was the action of the double Consistory approved? A. It was. It was approved.

By Mr. Dalrymple:

Q. How do you know it was approved? A. I was there and heard the motion passed.

Q. When was that meeting held when it was approved? A. To the best of my knowledge, it was January 11, 1912.

Q. It was approved as to all of the officers that had been passed upon for censure and for deposition? A. Yes.

Q. Then, how is it that in April you notified these men to appear for trial on April 26th? A. Because the charges had been presented to the Consistory for reconsideration to give them another chance to defend themselves.

Q. Then, in that event you did not consider that the Classis had any authority over you? A. I did not say so.

Q. You say it was approved by Classis? A. It was.

Q. In the face of that you took up the action after it had been approved by Classis? A. We did.

The further taking of depositions on the part of the relators is adjourned to the thirteenth day of May, at nine o'clock in the forenoon, at the office of Lewis A. Allen, Main Avenue, Passaic, N. J.

Pursuant to adjournment the taking of depositions is resumed this thirteenth day of May, at nine o'clock in the forenoon.

Appearances as heretofore.

LEONARD WYNBEEK, sworn as a witness on the part of the relators, testifies as follows:

Direct-examination by Mr. Foulds:

Q. Where do you reside? A. Passaic.

Q. Are you one of the relators in this case? A. Yes; I am.

Q. How long have you been a member of the North Side Christian Reformed Church of Passaic? A. About four or five years.

Q. When were you elected a deacon of that church? A. In the latter part of 1910.

Q. Were you thereafter ordained in the form prescribed for the ordination of deacons? A. Yes, sir.

Q. At about what time? A. The first Sunday in January, 1911.

Q. For what term did your office run? A. For two years.

Q. What is the custom in your church with reference to the term of office of an elder or deacon extending until a successor is appointed and installed; in other words, is the term of office for two years, or does it extend thereafter until the installation and ordination of a successor? A. The office expires when the newly elected successors are ordained and installed.

Q. Were you present at a meeting of the Consistory of the North Side Church held on January 4th last? A. Yes, sir.

Q. Do you recall a vote having been taken at that meeting with reference to the delaying of the installation of the new members of the Consistory? A. Yes, sir.

Q. What was that action? A. The installation was postponed. There was a vote of five in favor of and three against, and one neutral.

Q. Was this action in accordance with the customs and usages of the church? A. As far as I know, yes.

Q. Thereafter, did you attend all of the regular services of the North Side Church? A. Do you mean next Sunday?

Q. I mean from that time on did you attend all of the regular church services? A. Until now?

Q. Yes. A. No; not all of them.

Q. Do you recollect at what services you were absent? A. No, sir.

Q. Did you attend the regular church service on January 7th, which was the Sunday after the meeting of January 4th? A. Yes, sir.

Q. Was there any installation of deacons and elders at any of the regular church services on that day? A. No, sir.

Q. At any of the regular services of the church which you attended thereafter was there any installation of newly elected elders and deacons? A. No, sir.

Q. After January 4th did the defendants take possession of the church property? A. Yes, sir.

Q. Did they advertise that services would be held elsewhere than in the church? A. No.

Q. Let me call your attention to an advertisement in the Passaic Daily Herald, on March 23d, 1912, as follows: "Services at Reformed Church—The members of Northside Reformed Church will hold services at 8:30 o'clock to morrow in the Trinity Chapel, and 1:30 tomorrow afternoon, at Clifton Reformed Church, Clifton Avenue. At 3 o'clock the Rev. Arie J. Vandenheuvel will occupy the pulpit."

Mr. Dalrymple: I don't think the question is a proper one to ask this witness.

A. I don't remember that.

Q. On March 23d, was the Rev. Arie J. Vandenheuvel pastor of the North Side Christian Reformed Church of Passaic? A. No, sir.

Q. Had he been deposed prior to that time?

Mr. Dalrymple: I object to the question, on the ground that this witness is not qualified to answer the question.

Q. Do you know whether he had been deposed prior to that time? A. Yes.

Q. Had he been so deposed? A. Yes.

Q. Was his service advertised as I have read to you, a service authorized by the Consistory of the North Side Christian Reformed Church, composed of the relators?

Mr. Dalrymple: I object to the question upon the ground that it does not make any difference, as the service was not held in the church edifice.

A. No, sir; it was not.

Q. Have you ever been removed as a deacon of the North Side Christian Reformed Church of Passaic? A. I have not.

Q. Had you at any time between January 4th and March 23d, 1912, found the church locked at the time of the regular service? A. Yes.

Q. Was it done with the authority of the relators? A. No, sir.

Q. Do you know who caused the church door to be locked at that time? A. Yes; I think the newly elected and deposed elders and deacons.

Q. Consisting of the defendants in this suit? A. Yes, sir.

CROSS-EXAMINATION by Mr. Dalrymple:

Q. You say that at the meeting of January 4th, 1912, the vote was five to three. Will you kindly tell us who the five were who voted to defer the installation? A. Hornstra, Prins, Schilstra, Pontier and Wynbeek.

Q. Those are the five? A. Yes.

Q. Who presided at the meeting? A. Rev. Westenberg.

Q. Did he vote or not? A. Not on this question.

Q. How are you sure that he did not vote on this question? A. Because I am positive.

Q. He said on his examination that he voted? A. Not on this question.

Q. Was there a meeting of the congregation called on January 7th? A. Not by the Consistory.

Q. Was there a meeting called on January 7th?

Mr. Foulds: I object, upon the ground that the question is indefinite; it has been answered.

Q. Who was secretary of the Consistory of the North Side Church at that time, January 7th? A. Mr. Bast.

Q. Did he call a meeting for Sunday?

Mr. Foulds: I object upon the ground that the question is not proper cross-examination, any meeting of the congregation alleged to have taken place on January 7th not having been touched upon in direct-examination.

Mr. Dalrymple: Question withdrawn.

Q. You say that the church was closed at different times after January 7th. Do you know that to be a fact? A. Yes, sir.

Q. Was not that church closed by order of the court?

Mr. Foulds: I object, upon the ground that the question does not call for the best evidence.

Q. Was there not an order of the court posted on the door of the church? A. One morning.

Q. Did not that notice remain there? A. No.

Relators' Witness, Herbert Prins, Direct,

HERBERT PRINS, one of the relators, sworn as a witness on the part of the relators, testifies as follows:

Direct-examination by Mr. Foulds:

Q. Where do you reside? A. 48 Hadley Avenue, Clifton.

Q. Are you a member of the North Side Christian Reformed Church of Passaic? A. Yes.

Q. How long have you been a member of that church? A. About three years and five months.

Q. And were you elected to the Consistory of that church at any time? A. Yes, sir.

Q. When? A. In the year 1909 I was elected; I was installed in the latter part of January, 1910; I think it was the last Sunday in January.

Q. During the period between your election and your ordination, did you have any right to act as elder? A. No, sir.

Q. When did your official term of office commence? A. It commenced after the installation.

Q. Not on your election? A. No, sir.

Q. Between your election and ordination did you have the right to act as an elder? A. No, sir.

Q. For what term were you installed? A. For two years.

Q. Did your term of office terminate at the end of two years without reference to whether someone else was ordained as your successor? A. Of course not. If there are no others to take my place, I have a right to stay in there.

Q. Those who are installed as elders and deacons hold over until their successors take their place? A. Yes.

Q. Were you present at the meeting of the Consistory of North Side Church on January 4th, 1912? A. Yes, sir.

Q. Do you recollect an action taken at that Consistory meeting, with reference to the postponing of the installation of the newly elected elders and deacons? A. Yes.

Q. What action was taken at that meeting? A. Well, there was eleven members came with a complaint to the Consistory against the newly elected candidates. They presented that complaint for consideration, and we voted five to three to postpone the installation.

Q. Was that in accordance with the church practice? A. Yes, sir.

Q. Had the installation of elders and deacons been delayed on previous occasions? A. It was delayed at the time when I was elected. I was installed in the latter part of January. The regular day was on the first Sunday.

Q. Do you know whether the newly elected elders and deacons, constituting the defendants, have been installed at any regular service of the church? A. I know they were not installed.

Q. Do you know whether the defendants, pretending to act as a Consistory, have closed the North Side Church against the regular services? A. Yes, sir; they did.

Q. When? A. I don't know exactly the date.

Q. Was it between January 4th, 1912, and the present time? A. Yes, sir.

Q. And was it for more than one Sunday? A. I read a notice on the door. It was only for one Sunday, but they kept it there for two or three Sundays, I think it was.

Q. Did they actually close the church for more than one Sunday? A. Yes, sir.

Q. Did you try to enter the church at any of these times set for regular services? A. Not exactly for the services, but we tried to get in there, but we could not, because the gate and all was locked.

Q. Whom do you mean by "we"? A. Well, me and Mr. Pontier.

Q. The relators? A. Yes.

CROSS-EXAMINATION by Mr. Dalrymple:

Q. When you were installed was the occasion of the installation postponed by action of the Consistory? A. I was not at that time in the Consistory; so I do not know what the Consistory did in regard to that.

Q. When were you elected—what date? A. I cannot tell exactly what date. I think it was in the beginning of December or in the latter part of November that I was elected.

Mr. Foulds: I call upon the defendants to produce the minute book of the Consistory of the North Side Christian Reformed Church, which is in the possession of the defendants, in order that the dates may be fixed and the answers given with certainty.

Mr. Dalrymple: We will produce it at the proper time.

Mr. Foulds: I understand that this is the proper time, and I ask that it be produced immediately.

Mr. Dalrymple: We cannot produce the minutes immediately because we have not got them.

Mr. Foulds: Where are the books?

Mr. Dalrymple: I don't know at the present time.

Mr. Foulds: Are they in the possession of the defendants?

Mr. Dalrymple: Yes.

Relators' Witness, Garret Westenberg, Direct

GARRIT WESTENBERG, a witness already sworn on the part of the relators, testified as follows:

Direct-examination by Mr. Foulds:

Q. Have you made a translation of the minutes of the Special Classis of Hudson, held on January 11th, 1912, with the corrections noted at the subsequent classis, when the minutes were read and adopted? A. I have, in part, yes, sir. I have not translated the whole minutes but just part of them.

Q. The paper which you produce is a correct translation as far as it refers to the North Side matter? A. Yes.

Mr. Foulds: I offer the paper in evidence. Paper is marked Exhibit R-7.

Q. The notes which you have indicated by stars are corrections made at the subsequent Classis, when the minutes were read and approved? A. Yes; they were.

Q. Which of the two contesting Consistories of the North Side Church is recognized by the Classis of Hudson as the lawful Consistory of the North Side Christian Reformed Church of Passaic? A. The Consistory, of course, consisting of—

Q. (Interrupting.) The Consistory consisting of the relators? A. Yes.

Q. You have stated that you are familiar with the church law and practice in the Christian Reformed denomination. Will you state whether the term of office of an elder and deacon extends until his successor is ordained and installed? A. It always does; yes, sir.

Relators' Witness, Garret Westenberg, Cross

CROSS-EXAMINATION by Mr. Dalrymple:

Q. Where do you get your authority for saying that? A. We have a custom in the church that is never contradicted, not in meetings of the Classis or Synod; it has always been a custom in all our churches.

Q. Do different churches have different rules in reference to that? A. Not in our denomination.

Q. Did not you say in your direct-examination that the local church was supreme in authority? A. I do not remember that question being asked in that line; but the local church, that is, the Consistory, is supreme, in so far as no one comes to make remark and to appeal to a higher church meeting; then, of course, it is subject to the decision of Classis or Synod.

Q. Was the question of the validity of the election of the three defendants ever brought to the attention of the Classis for adjudication? A. Yes; Classis has acted upon that.

Q. Classis has acted, as I understand, upon the individual members; is that right? A. Classis has acted upon the individual members and also upon the two parts.

Q. What two parts do you mean? A. I mean the part that remains and the part that was left, that is, of the Consistory.

Q. What I mean is this: Has the question of the validity of the election ever been brought to trial before the Classis of Hudson? A. Well, not of the election. We all admit that the election was right; but not the confirmation.

By Mr. Foulds:

Q. Has the matter of the validity of the election, appointment or call of the trustees been referred for official decision to the superior church judicatory, to wit, the Classis of Hudson? A. Yes, sir; as a whole it was.

Q. What was the determination of the Classis in that matter? A. The Classis of Hudson decided that that was not according to the church rules, and, consequently, not legal.

Q. That what was not legal? A. The election, appointment and call of the newly elected candidates.

By Mr. Dalrymple:

Q. How do you reconcile that answer with your former answer, that there is no question about the validity of the election of Zylstra, De Roos and De Ruiter, as elders, and of Roosma and Haakmeester, as deacons? A. In the first place, they were elected as candidates for confirmation as elders and deacons. In the second place, this section in the book of law brings them to their official position as confirmed elders and deacons; and the election to which I refer as there being no question about, was simply an election, the preliminary work of the congregation which does not bring them into office.

Q. They were first nominated by the Consistory, were they not? A. I think so; I was not there; I suppose so.

Q. They were voted for by the congregation, were they not? A. Yes.

Q. Do you mean to tell me that that is only an election to be a candidate A. Sure. They are candidates for confirmation.

Q. And their office is not conferred upon them, and they are not clothed with any official functions whatever, until after their ordination? A. That is right.

Mr. Foulds: The relators now rest. We are very anxious to present this matter to the Court on the return day named in the order, and request that the defendants' proofs be taken as promptly as possible, and we waive any provision as to notice and are ready to proceed immediately.

Exhibit R-1

Mr. Dalrymple: Within twenty-four hours after I receive a copy of the depositions taken on the part of the relators, we will be ready to go on with our side of the case.

At this point an adjournment is taken to Thursday morning, May 16, 1912, at ten o'clock, at the office of Mr. Dalrymple, in Passaic.

Exhibit R-1.

Certificate of Incorporation.

To the Clerk of the Court of Common Pleas of the County of Passaic:

We, Mathys Klapmuts, Jan Snoep, Nick Hornstra, Jetse Pruiksma, Jilles Bergsma and John Sylstra, all of the City of Passaic, in the County of Passaic and State of New Jersey, do certify that on the twenty-first day of July, in the year of our Lord, One Thousand Nine Hundred and Five, the congregation of the Northside Christian Reformed Church, a congregation of Christians of the denomination known as Christian Reformed, entitled to protection in the free use of their religion, by the constitution and laws of this State, assembled at their church, in Autumn Street, in said City of Passaic, which is their usual place of meeting for public worship, for the purpose of electing trustees for the said congregation, with a view to becoming incorporated according to law; and that at least ten days' notice of the time and purpose of such assembling had previously been given by advertisement set up in open view at said place of meeting, that the said time of assembling having been agreed

upon by said congregation; and that said congregation, when so assembled, did then and there, by plurality of voices of such of the members of said congregation who regularly contribute to the support thereof, being male members, over twenty-one years of age, as were present, elect us, the said Mathys Klapmuts, Jan Snoep, Nick Hornstra, elders, and Jetse Pruiksma, Jilles Bergsma and John Sylstra, deacons, of the said congregation, there being no ministers or minister at the present time; to be the trustees of said congregation, and did instruct us to take upon ourselves a name of incorporation, and to certify the same under our hands and seals and transmit the same to the Clerk of the Court of Common Pleas of the County of Passaic for record, to the end that we, the said trustees, might become incorporated pursuant to the provisions of an act of the Legislature of the State of New Jersey, entitled "An Act to incorporate trustees of religious societies," and the supplements thereto and amendments thereof.

And we further certify that, pursuant to the said instructions and the provisions of the said act, we have taken upon ourselves the name of "The Minister, Elders and Deacons of the Northside Christian Reformed Church, of Passaic," for a name of incorporation under said act.

Given under our hands and seals this twenty-first day of July, in the year of our Lord, One Thousand Nine Hundred and Five.

HENRY BEWKES, JR.

MATHYS KLAPMUTS, (L. S.)
JAN SNOEP, Elders. (L. S.)
NICK HORNSTRA, (L. S.)

JETSE PRUIKSMA, (L. S.)
JILLES BERGSMA, Deacons. (L. S.)
JOHN SYLSTRA, (L. S.)

Exhibit R-7

State of New Jersey, } ss:
County of Passaic, }

Be it remembered that on this twenty-first day of July, in the year of our Lord, One thousand nine hundred and five, personally appeared, before me the subscriber, a Master in Chancery of the aforesaid State, Mathys Klapmuts, Jan Snoep, Nick Hornstra, Jetse Pruiksma, Jilles Bergsma and John Sylstra, who I am satisfied are the persons named in and who executed the within instrument and I having first made known to them the contents thereof they severally acknowledged that they signed, sealed and delivered the same as their voluntary act and deed for the uses and purposes therein expressed.

HENRY BEWKES, Jr.,
Master in Chancery of New Jersey.

(Endorsed): Received in the Clerk's office of the County of Passaic on the 22nd day of July, A. D., 1905, at ten o'clock in the forenoon and recorded in Book "O" of certificates for said county, on pages 232, &c. Jno. J. Slater, Clerk.

Exhibit R-7.

Translation of Minutes.

Special Classis, held January 11, 1912.

The Classis of Hudson, having taken due notice of all the proceedings of the consistory of North Side which were made under the direction of the president of the supervising consistory of Hope Avenue, he having been called in to act in that capacity, places

Exhibit R-7

its approval upon these proceedings in so far as they are reported by the present consistory of our congregation at North Side.

The classis further taking due notice of the fact that the installation of all candidates was postponed until the consistory of North Side in conjunction with a neighboring consistory had passed judgment in reference to the complaints entered against these candidates—this resolution having been taken by the consistory of North Side upon recommendation of Hope Avenue—approves of this resolution to postpone said installation upon the following grounds:

(a) Because eleven complaining brethren had appeared at the consistory and made complaint against all the candidates with the exception of Brother Roosma.

(b) Because the consistory possessed evidence that there was a movement in the congregation to incite a spirit of rebellion with the purpose that this rebellion should break forth openly as soon as the candidates were installed (of. minutes of consistory, Hope Ave., Jan. 6, 1912).

(c) Because the recommendation of Hope Avenue had binding power, which power was delegated to Hope Avenue by the Classis, Hope Avenue had advised to postpone the installation until a double consistory gave further advice in the matter—and had advised further for the sake of good order that the installation of Brother Roosma be postponed likewise, although a word of esteem was expressed for his good conduct. (Hope Ave. Minutes, Jan. 6, 1912.)

The Classis taking due notice of the fact that

(a) The Brethren Bast and Groenhof as vice-president and clerk of consistory, in spite of the resolution

of the consistory to postpone the installation, created a disturbance in the divine service of the Sabbath-day, by stating that a congregational meeting was called by them.

(b) [(Note 1.) That Brother Bast stated that this (so-called) "congregational meeting" would then deliberate on the question whether the installation should take place or not] (while it is a fact that in Reformed Churches such a decision can be made only by the consistory and in this particular case, could be made only by the two consistories, Hope Avenue and North Side together).

(c) That the consistory, after this so-called "announcement" for such an illegal action, resolved at noon to officially make known from the pulpit that the meeting called by Brother Bast would not be legal congregational meeting.

(d) That the Brethren Bast and Groenhof persevered in their open opposition and rebellion against their own consistory as well as against the resolutions of Classis Hudson and held a meeting of a schismatic nature, a meeting which had been declared illegal (note 2)—therefore the Classis declares:

1: That only the resolutions and all the resolutions taken by the majority of the consistory can in this case be regarded as legal resolutions of the consistory and therefore are legal in so far as Hope Avenue has approved of them.

2: That the Brethren Bast and Groenhof have made themselves guilty of sins specifically named in Art. 80 (D. K. O. Christian Reformed Church Manuel) and thereby have made themselves worthy of being peremptorily deposed from their offices.

Exhibit R-7

3: That the meeting of the members of the congregation called by Brother Bast "a meeting of male members" is condemned by this Classic as being "unreformed and illegal."

4: That all resolutions taken there can not and may not be regarded as legal resolutions of the congregation North Side.

5: That all office-bearers in the congregation at North Side have had a legal right to retain their offices and shall continue to retain them as long as they are not legally deposed according to D. K. O. (Christian Reformed Church Manual), or until others are legally substituted in their place.

6: That the elders, Hornstra, Prins and Schilstra and the deacons Pontier and Wynbeek, who, as far as can be judged, have remained faithful in every respect until now, are the legal consistory of our incorporated congregation at North Side. This consistory remains legally such until a change is made in a Reformed manner and upon the advice of the consistory at Hope Avenue, or in case another resolution be taken by the Classis.

7: That the so-called installation of the newly chosen brethren is regarded as illegal because this was done in opposition to the resolution of the consistory at North Side.

8: The Classis of Hudson legally assembled this day considering that Rev, A. J. Vanden Heuvel with a large number of the members separated from the Christian Reformed Church and made himself the leader of a newly organized congregation, considering further that, this action viewed in the light of scripture, confession and church manual can be characterized only as a very serious and offensive sin of mutiny and schism, considering, that the schism according to

church manual (Art. 80) falls under the sins which make one worthy to be deposed, therefore, the Classis resolves, in the name and with the authority of the Lord, Jesus Christ, the King of the Church, to remove him from his ecclesiastical functions, to give him a written notice of this resolution and to officially inform the other Classis of the denomination.

9: That the property and possessions of the congregations, North Side rightfully belong to the Christian Reform Church at North Side which has remained faithful and which abides by the resolutions of Classis Hudson and recognizes as the legitiment consistory of the congregation that body which consists of the elders, Hornstra, Prins and Schilstra and the Deacons Pontier and Wynbeek, the legitimate consistory in our churches acts as a legally appointed Board of Trustees and consequently the consistory remains the administrative body of all ecclesiastical possession of North Side.

10: That the Classis thus authorizes the consistory to carry into effect these classical resolutions in order to retain by process of law possession of the church property.

11. That this Classis protests against the use of our name by any other corporation.

12: That North Side be informed that a candidate shall speak there in place of Rev. K. Van Goor, the fourteenth of January.

NOTES Part in [ ] corrected by Classis to read: That brother Bast said: "In the name of the vice president the male members are called after the afternoon meeting to speak about the installation of the candidates." While it is a fact, etc.

NOTE 2: Inserted by Classis: And which ever went farther than the purpose for which it was called.

Exhibit R-8. Order in Chancery.

IN CHANCERY OF NEW JERSEY.

Between JOHN SCHILSTRA, *et als.*, Complainant, and ARIE J. VAN DEN HEUVEL *et als.*, Defendant.	On Bill &c. Order.

This cause being opened to the Court on the Rule to Show Cause granted on the thirteenth day of March, Nineteen Hundred and Twelve, in the presence of Lewis A. Allen and Andrew Foulds, Jr., of Counsel with Complainants, and George H. Dalrymple and William R. Ryan of Counsel with the Defendants

It is, on this twenty-eighth day of March, nineteen hundred and twelve,

Ordered, that the preliminary injunction and restraining orders heretofore made and entered in the above stated cause to be vacated to the extent hereinafter indicated and that the complainants and their associates shall have the possession, use and control of the church edifice and temporalities of the North Side Christian Reformed Church of Passaic, N. J., on Sunday of each week during the forenoon and until one o'clock in the afternoon of said day, and that they shall then cease to have any right to interfere with the matter of services in the said church from that hour until six o'clock each Sunday evening, and that between the hours of one o'clock and six o'clock on each Sunday afternoon, the defendants and their associates shall have the right to have such services in said church as they may desire and for this purpose the injunction heretofore issued in the above stated cause against the

Exhibit R-8. Order in Chancery

Reverend Arie J. Van den Heuvel is to be suspended to the extent necessary for that purpose.

It is further ordered that the complainants and their associates are to be permitted to have the church edifice and temporalities aforesaid from six o'clock on each Sunday evening for such Divine services therein as they desire to have conducted from said hour until the end of the day.

It is further ordered that on Monday, Wednesday and Friday of each week the complainants and their associates are to have the undisturbed possession of the church building and temporalities and that on Tuesday, Thursday and Saturday of each week the defendants and their associates shall have the exclusive right to the use of the church building.

It is further ordered that neither party shall interfere in any way with the services, management or business of the other during the time so set apart for the uses of the other party.

It is further ordered that the complainants and their associates and the defendants and their associates may respectively take up their collections or collect whatever moneys, in the ordinary way they do collect them and hold and disburse the same by their own treasurer or other fiscal officer, respectively, but that all common expenses of the church, that is, for all things which are not for the peculiar advantage of either particular party shall be subject to be borne equally by both treasuries, and for this purpose application may be made by either party to this Court upon two days notice to the other for an order requiring the payment of any expenses which the party making the application thinks should be paid jointly out of the two funds to the end that the Court may make such order as may be proper for the payment of such moneys.

It is further ordered that for the present the janitor now in charge may remain in charge of the church subject to the order of this Court, and

Exhibit R-8. Order in Chancery

It is further ordered that Nicholas Reinstra, the janitor as aforesaid shall see that the church is open at all the times arranged for the use of the respective parties as aforesaid and that a copy of this order be given to him.

It is further ordered that each of the parties to wit: the complainants and the defendants have keys to the church building.

It is further ordered that the minister of the defendants may continue to occupy the church parsonage, the complainants consenting thereto, until the further order of the Court, and that there be paid by the treasurer of the defendants to the treasurer of the complainants the sum of seventeen dollars and fifty cents ($17.50) per month, on the first day of each month, being one-half of the amount of the agreed rental of the said parsonage until the further order of the Court.

It is further ordered that the books of the church be deposited with William W. Watson, Esq., a Master of this Court, subject to inspection at all times by the parties to this cause and their associates, and that all parties refrain from making further entries in said books until the further order of the Court. And that said books remain in the possession of William W. Watson until the further order of this Court.

It is further ordered that the expense of lighting the church building be adjusted between the respective parties.

It is further ordered that unless prior to the first day of May, nineteen hundred and twelve *quo warranto* proceedings be commenced or instituted to determine the title to office of certain of the parties hereto an application may be made to the Court by either party to dismiss any injunction or restraint or for other relief in this cause.

Exhibit R-8. Order in Chancery

It is further ordered that except as herein modified, the injunction and restraint heretofore granted remain in full force and effect.

Respectfully advised,

E. R. WALKER,

C.

Lindley M. Garrison,

V. C.

We consent to the making of the foregoing order.

LEWIS A. ALLEN & ANDREW FOULDS, JR.,

Complainants' Solicitors.

GEORGE H. DALRYMPLE,

Defendants' Solicitor.

Case.

NEW JERSEY SUPREME COURT.

THE STATE OF NEW JERSEY, *ex rel.* NICK HORNSTRA, *et al.*, Relators, vs. MARTINUS J. BAST, *et al.*, Defendants.	Quo Warranto.

Depositions on the part of the defendants, taken by consent, before me, Edward O'Byrne, Supreme Court Examiner, on the twenty-fourth day of May, nineteen hundred and twelve, at ten o'clock in the forenoon, at the office of George Dalrymple, Esq., Passaic, New Jersey, in the presence of Mr. Bradley (of Collins & Corbin) and Mr. Dalrymple, for the defendants, and Mr. Foulds for the relators.

EDWARD O'BYRNE,

Supreme Court Examiner.

It is stipulated that the depositions of witnesses may be taken in shorthand notes by the Examiner, and that when transcribed by him the typewritten transcript thereof shall have the same force and effect as if taken in long hand, and that the signatures of the witnesses are waived.

Mr. Foulds: I would like at this time to make an offer in evidence which I find I omitted. I offer in evidence copy of the amended bill and order in the chancery suit between John Schilstra, *et als.*, complainants, and Arie Van den Heuvel, *et als.*, defendants. The amended bill was filed March 13th, 1912, and the order was entered on March 28th, 1912.

Mr. Bradley: I object to each of these offers on the ground that each is immaterial, irrelevant and incompetent.

Papers are marked Exhibits R-8 and R-9.

MARTINUS J. BAST, one of the defendants, sworn as a witness on the part of the defendants, testifies as follows:

Direct-examination by Mr. Bradley:

Q. Where do you live? A. 18 Second Street, Clifton.

Q. What is your business? A. Carpenter.

Q. Are you a member of any church in Passaic? A. Yes.

Q. State what church you are a member of? A. The Christian Reformed Church, Northside.

Q. Are you a member in full communion with that church? A. I am.

Q. Do you hold any office in the church? A. Elder and secretary.

Q. Secretary of what? A. Secretary of the consistory and the congregation at the same time.

Q. As secretary of the consistory do you keep the minutes of the meeting of the consistory? A. Yes.

Q. And also the minutes of the meetings of the congregation? A. Yes.

Q. In what language? A. The Holland language.

Q. Have you the minutes with you? A. Yes.

Q. How long have you been secretary? A. Since January, 1911. I was elder in the first of January, and I was elected as secretary the ninth of January, 1911.

Q. Who was secretary before you? A. Mr. H. Prins.

Q. Did he turn over to you the book of minutes when you became secretary? A. Yes.

Q. I ask you if this book which I show you is the book of minutes which Mr. Prins handed to you when you became secretary? A. Yes.

Q. And is it the book in which you have kept the minutes since you were chosen as secretary? A. Yes.

Mr. Bradley: I offer the book in evidence.

Mr. Foulds: I object to the admission of the book in evidence as to the pages following page 492, upon the ground that those minutes were not recorded by the secretary and are not minutes of the consistory or congregation of the North Side Christian Reformed Church of Passaic.

Minutes are marked Exhibit D-1.

Q. Have you continued to be secretary of the Northside Christian Reformed Church of Passaic from the time of your election in January, 1911, until the present time?

Mr. Foulds: I object to the question upon the ground that it calls for a conclusion on

the part of the witness on the very question in dispute here.

A. Yes.

Q. Have you acted as secretary for the consistory and congregation which until January 7th was known as the North Side Christian Reformed Church of Passaic?

Mr. Foulds: I object to the question for the same reasons as stated in objection to last question.

A. Yes, sir.

CROSS-EXAMINATION by Mr. Foulds:

Q. What is the name of this consistory and congregation to which you have just referred in your last answer? A. That is the congregation incorporated as the North Side Christian Reformed Church of Passaic.

Q. Does that body at the present time still retain that name? A. It is under that name. It is by law known under that name.

Q. What do you mean to imply by the use of the words "by law" in your last answer? A. I cannot answer that question.

By Mr. Dalrymple:

Q. Do you understand it? A. Yes; I understand it; I know it is a corporation by that name, but I cannot explain in English.

By Mr. Foulds:

Q. Does the church organization of which you are now a member use the name "North Side Christian Reformed Church" as its title? A. I do not understand that.

Q. Does your church advertise services for Sunday?

Mr. Bradley: I object to the question as not being cross-examination.

A. I don't know.

Q. Under what name does your church conduct its services on Sunday?

Mr. Bradley: I object to the question on the ground that it is not proper cross-examination.

A. I can tell it in the Holland language.

Q. Tell it in the English language? A. We are known as the corporation of the Christian Reformed Church, and we hold our services under the name of the Fourth Reformed Church.

Q. Your church, then, is known as the Fourth Reformed Church? A. Yes.

Q. How long have you used that name for your church?

Mr. Bradley: At this point I want to put in my objection to this whole line of examination as not being proper cross-examination.

Mr. Foulds: That is understood.

A. I cannot remember the date of that.

Q. Did you refer to your minute book D-1 before answering that question? A. I was looking at it, but I did not see it there.

Q. Is there an entry in that minute book of the fact of the change of name?

Mr. Bradley: I object upon the ground that the minute book itself is the best evidence.

Mr. Foulds: In answer to the objection, counsel for the relators states that the minute

book is written in the Holland language, as the witness has testified, and that counsel is not familiar with the language.

A. I don't know; I will have to look for it.

Q. Does the name of your church appear in these minutes?

Mr. Bradley: I object to that question upon the ground that the minutes themselves are the best evidence. All this testimony along this line is objected to on the same grounds as stated above.

A. I guess not.

Q. Is the Fourth Reformed Church to which you are referring a church of the Christian Reformed faith?

Mr. Bradley: I object to the question on the ground that it is not proper cross-examination, and also on the ground that it is incompetent, irrelevant and immaterial.

A. Yes.

Q. To what classis is the Fourth Reformed Church mentioned by your subject?

Mr. Bradley: Same objection as to the previous questions.

A. Paramus.

Q. Is the classis of Paramus a classis of the denomination known as the Christian Reformed Church of America?

Mr. Bradley: I wish to enter the same objection.

A. The Reformed Church.

Q. The Reformed Church and the Christian Reformed Church are two separate religious denominations, are they not?

Mr. Bradley: I wish to enter the same objection as made to previous questions and also the further objection that the witness is not qualified as an expert.

A. I do not give an answer.

Q. Why do you refuse to answer? A. I am not an expert in church rules.

Q. Don't you know whether the Christian Reformed Church and the Reformed Church are two separate religious denominations?

Mr. Bradley: I wish to enter the same objection to all of this testimony.

A. They are separate, but they have the same religion.

Q. Since the first of February last has your church used in its title, in any way, the words "Christian Reformed"?

Mr. Bradley: Same objection as stated before.

A. We do not act—I do not mean that—I—

Q. (Interrupting.) On Sunday, the twenty-fourth day of March, 1912, did your faction of the membership of the North Side Christian Reformed Church, calling itself the Fourth Reformed Church of Passaic, hold services at the Trinity Methodist Episcopal Church in Autumn Street, in the morning, and at the Clifton Reformed Church in the afternoon?

Mr. Bradley: I object to the question on the ground that it is not proper cross-examination, and also upon the ground that it is immaterial, irrelevant and incompetent; and furthermore on the ground that the question assumes a conclusion.

A. We held services there, but I do not know for sure the date.

Q. (Showing witness newspaper.) I show you a copy of the Passaic Daily News, for Monday, March 25th, and I ask you if that refreshes your recollection?

Mr. Bradley: I object to this method of refreshing the witness's recollection, and I also object upon the grounds stated in my objection to the last question.

A. I cannot go by the paper.

Q. Is the church referred to in that newspaper article which you have just seen your faction of the North Side Christian Reformed Church of Passaic?

Mr. Bradley: I object upon the grounds stated in previous objection.

A. I cannot answer that question.

Q. When you say that you have been in full communion in the Christian Reformed Church, North Side, down to the present time, do you mean that you have been in full communion in the church in which these relators, Mr. Hornstra and his associates, act as the consistory?

At this point the Rev. Dr. Jacob Poppen was used as interpreter, and the examination of this witness from this point on was continued through the interpreter.

Question above repeated by interpreter.

A. I have been a member in full communion until the date when that faction no longer recognized us as members.

Q. Since that time you have not been in full communion in the church in which Mr. Hornstra and his associates act as consistory? A. If they are the consistory, I have not been.

Q. The church in which these relators, Mr. Hornstra and his associates, act as consistory, continues the use of the name "Christian Reformed Church of Passaic," do they not?

Mr. Bradley: I object to the question upon the ground that it is not proper cross-examination, and also upon the ground that it is immaterial, irrelevant and incompetent.

A. They still use that name.

Q. And you and your associates constituting the defendants do not meet with them and do not use that name? A. We do not meet with them.

Q. Then, what do you mean by saying that you are a member of the Christian Reformed Church, North Side, in full communion, on your direct-examination? A. In the first couple of questions I replied to that question.

Q. Answer it again? A. That we are known as the Christian Reformed Church as a corporation, and that I am a member in full communion with that congregation.

Q. Did you and your associates take forcible possession of the church edifice and employ an armed person to keep the relators out of their church?

Mr. Bradley: I object to that as incompetent, immaterial and irrelevant.

A. No.

Q. Are you a member of the Christian Reformed denomination or the reformed denomination? A. I have answered that question more than once and I will reply to it no more.

By Mr. Dalrymple:

Q. You must answer the question put to you by counsel? A. It is sufficient for me to say that I have already replied to that question.

ARIE J. VAN DEN HEUVEL, a witness sworn on the part of the defendants, testifies as follows:

Direct-examination by Mr. Bradley:

Q. Where do you live? A. 219 Myrtle Avenue, Passaic.

Q. What is your profession? A. Minister of the gospel.

Q. Of what denomination? A. At the present of the Reformed denomination.

Q. Have you ever been a minister of any other denomination? A. Of the Christian Reformed?

Q. And for how long were you a minister of the Christian Reformed denomination? A. From 1890 until March of this year; I do not recollect the exact date.

Q. March, 1912? A. Yes; March, 1912.

Q. Have you had a church committed to your care as minister of the Christian Reformed Church in Passaic? A. Yes.

Q. What church was that? A. Christian Reformed Church, North Side.

Q. How long were you a pastor of that church? A. A little over four years,—since August, 1907. Last August it was four years.

Q. And you continued in that pastorate how long? A. You mean in the Christian Reformed Church?

Q. The North Side? A. Until the beginning of this year.

Q. What date? A. Until we had the friction.

Q. Were you pastor of the North Side Christian Reformed Church on January 7th, 1912? A. Certainly.

Q. And on January 8 and 9, 1912? A. Yes, sir.

Q. Have you studied reformed theology? A. Yes.

Q. Where? A. Grand Rapids, Michigan.

Q. Under the Theological Seminary? A. Yes.

Q. For how long? A. Well, I finished the studies here; I passed the courses in three years.

Q. Are you familiar with the rules and theology of the Christian Reformed Church? A. Yes, sir.

Q. And with the books of literature? A. Certainly.

Q. And the commentaries upon that theology? A. Yes.

Q. Are you also familiar, as a result of your studies, with the rules and commentaries upon the theology of the True Reformed Dutch Church? A. I am.

Q. Are you also familiar with the theology and with the rules of government of the Reformed Church of America? A. I am.

Q. Are you familiar with the history of the True Reformed Dutch Church and of the Christian Reformed Church? A. Yes, sir.

Q. What is the connection, if any, between the True Reformed Church and the Christian Reformed Church? A. Two secessions took place, one in the East of the True Reformed Dutch Church, later called Classis of Hackensack, as it was known generally; that was in 1822; and another secession has taken place in the west, and that was in 1857. Both have seceeded from the reformed denomination.

Q. What was the name of the western secession? A. Well, they had two changes in names. That is a matter of record though, that we could look up at any time. The first name, I think, was the Holland Christian Reformed Church. That was changed, though, and the name Holland was dropped later on. Any way, these two secessions in 1890 united, so that the Christian Reformed united with the True Protestant Dutch Reformed known as the Classis of Hackensack.

Q. When did the Christian Reformed Church unite with the reformed church? A. It was in the year 1890, the Holland Reformed, and two years later the name Holland was dropped.

Q. What has it been called since? A. Christian Reformed.

Q. That is the denomination to which the North Side Christian Reformed Church of Passaic belonged? A. Yes.

Q. At the time of that union did the Christian Reformed Church adopt and accept the rules of government of the True Reformed Dutch Church? A. It did. It specified their internal government.

Q. Those rules are contained, are they not, in the Synod of Dort? A. The Synod of Dort with explanatory notes.

Q. I show you a book, the title of which is "Church Manual, containing the eighty-six rules of Church Government adopted by the Synod of Dort, in 1618-1619, with the decisions of later Synods, as to the application of the different rules, together with the reasons of separation from the Reformed Dutch Judicatories, in 1822, Definitions of Doctrines, etc., arranged and presented by the Classis of Hackensack of the True Reformed Protestant Church, October, 1878," and I ask you if the rules contained in that book in addition to the eighty-six articles of the Synod of Dort, constituted the manual of the Christian Reformed Church after its union with the True Reformed Dutch Church?

Mr. Foulds: I object upon the ground that the word "rules" makes the question indefinite.

Mr. Brady: I will supplement the question by limiting it to the rules of church government appearing on pages forty-five to eighty-six of the book, which I show the witness.

Mr. Foulds: Then, I withdraw the objection.

A. Certainly. It was in the Synod Acta of 1890.

Mr. Bradley: I offer in evidence these pages, forty-five to eighty-six, of this book.

Mr. Foulds: I ask permission to cross-examine the witness before the book is marked in evidence.

CROSS-EXAMINATION by Mr. Foulds:

Q. Are these so-called rules of church government appearing on pages forty-five to eighty-six of this book, rules applicable to churches of the Classis of Hudson of the Christian Reformed Church? A. To any church of the Christian Reformed denomination after 1890.

Q. Can you answer that question, yes or no? A. Certainly.

Q. In what manner are these rules made applicable to the churches of the Classis of Hudson? A. As part of the internal government as the Synod had put it at the time of the union.

Q. Was there a paper drawn up at that time making certain rules applicable to the churches in the Union? A. Yes. There is a report of the committee first in the Classis of Hudson, in corresponding with the Classis of Hackensack, when the union was proposed. That report has been presented at a Synod and the Synod adopted it over, and that is where I quote from when I say that in the internal government the Classis of Hudson unites with the Classis of Hackensack, and specifies that no objection is raised whatever, under "Organic Union," even, as the words literally stand in the Holland language.

Mr. Foulds: I object to the offer unless the paper referred to by the witness is produced. That is the best evidence of the agreement.

By Mr. Dalrymple:

Q. I show you a pamphlet entitled "Synodale Handelingen Der Hollandiche Christ. Geref. Kerk. in America," dated the fourth of June, 1890, and I ask in what language this pamphlet is? A. It is in the Holland language.

Q. Are you familiar with that language? A. Yes, sir.

Q. Please translate the title of this book which I have shown you? A. "The Synodical Acts of the Holland Christian Reformed Church in America, held at Grand Rapids, Michigan, the fourth of June, in the year 1890."

Q. Are these the minutes of the Synod at which this union took place? A. Yes.

Q. To which you have just testified? A. It is.

Mr. Bradley: I offer the book in evidence.

Mr. Foulds: I object upon the ground that the paper offered does not disclose that the pages forty-five to eighty-six are applicable to the church of the Classis of Hudson.

Marked Exhibit D-2.

Q. Will you read from Exhibit D-2 for identification the passages which makes these rules applicable to the Christian Reformed Church?

Mr. Foulds: I think Dr. Poppen would be more satisfactory to us on this subject.

A. First you have in the report of the Classis of Hudson by the committee who was appointed in 1888 through Synod stating that no objection was found in the Union as in regard to the internal government

of the church. Then it talked about other points. Further, they close up by considering all these, and they propose under their advice to the Synod that no legal hinderance is in the way and the time is ripe for organic union, according to the providence of God; therefore, the committee will be glad if this report will be adopted. This report is signed by the committee.

Q. Will you point out article forty-nine (49) which adopts that report? A. Yes. We have article forty-four (44), the report of the committee in regard to the union of the True Reformed Dutch Church (see article 24) comes to the table. This report was accepted, and after that, discussed. The hour for closing came, and the meeting was adjourned and closed. Then we come to Article 49—the discussion in regard to the union according to Article 46 is continued. Then the Synod approves the acts of the committee in regard to the union with the True Reformed Protestant Dutch Church, with this understanding that their fifty-two hymns on the Heidelberg catechism will be tolerated though not in the Holland and in the German speaking churches no more hymns will be added. The report of this committee it was decided to accept. It is in Appendix 8.

Mr. Dalrymple: I now renew the offer over Mr. Foulds' objection both as to D-2 and D-3.

Mr. Foulds: I repeat my objection.

Marked Exhibit D-2 and Exhibit D-3.

Q. In the latter part of December, 1911, certain elders and deacons were elected by the congregation of the North Side Christian Reformed Church, were there not? A. Yes; there were some elected in November and some elected in December.

Q. By the end of December, however, there had been a certain number of elders and deacons elected? A. Yes.

Q. The names of the elders and deacons who were elected at that time were: John Zylstra, Gerlof De Roos and Frank De Ruiter, as elders, and Siebe Roosma and Martinus Haakmeester as deacons, were they not? A. Yes, sir.

Q. It is part of the custom and form of the government of the Christian Reformed Church for the pastor of the congregation to install elders and deacons is it not? A. Yes, sir.

Q. What was done by you with reference to installing these three elders and two deacons? A. They called on me in the parsonage on January 7th from the meeting held in the church, and it was explained to me by the president of the meeting that the congregation had withdrawn from Classis Hudson and they asked me to do the same and install the chosen consistorymen according to the decision which had been announced before to the congregation, and so I did comply with their wishes.

Q. At what time did you do so? A. It must have been between five and six o'clock, because this meeting was held right after the afternoon service; it must have been between five and six o'clock, to the best of my recollection.

Q. What form did you use? A. The regular form.

Q. The regular form of the Christian Reformed Church? A. The Christian Reformed Church. There is only one form.

Q. Were you at that time a minister of the Christian Reformed Church? A. Yes.

Q. Had any charges been preferred against you? A. No; not as far as I know.

CROSS-EXAMINED by Mr. Foulds:

Q. Have you been expelled from the Christian Reformed Church? A. I have been; I have notice to that effect.

Q. By what body were you expelled? A. Classis of Hudson.

Q. Do you recognize the authority of that body to take such action? A. Not on these grounds.

Q. If the grounds had been sufficient, however, their action you would recognize as lawful? A. Certainly, if their grounds had been sufficient.

Q. In other words, you recognize that they had jurisdiction to expel you on sufficient grounds? A. If they had sufficient grounds to do so.

Q. At the time that you conducted this so-called service of installation had you been ordered by Classis Hudson of that denomination to withhold yourself from work in the congregation of North Side? A. I had.

Q. And your action in conducting this installation service was in violation of that order, was it not? A. Certainly.

Q. The act of a minister of that denomination in installing candidates for deacons and elders is on behalf of the consistory, is it not?

Mr. Bradley: I object to that question on the ground that it is not proper cross-examination.

A. It is not clear to me what that means—"on behalf of."

Q. Has the consistory of the churches of the Christian Reformed denomination authority to delay the installation of deacons and elders? A. Oh, yes; that is, they must do it in a lawful way, when they act according to their own church regulations.

Q. The majority of voices in the consistory control the action of the consistory? A. It controls if they act lawfully. As soon as they leave the legal route, then, of course, nobody is bound by it according to the principles of the church itself.

Q. That is your opinion? A. It is not my opinion; I know it. It is the church rule.

Q. When are deacons and elders invested with their office,—on their election by the congregation or on their installation?

Mr. Bradley: I object to the question on the ground that it calls for a conclusion for which there is no foundation.

A. On their election. The installation is formal. It is not of the essence of the office.

Q. Do the deacons and elders take their seats in the consistory before their installation and ordination? A. Well, in some cases they do. For instance, they are not installed again after re-election. They continue their seats without being installed on January first, even if the newly chosen ones are installed.

Q. In your experience of a great many years which you have told us about in this denomination have you ever known of an elder or deacon sitting in the consistory before he had been installed or ordained as such? A. No, I don't remember.

Q. And would such action be legal?

Mr. Bradley: I object as calling for a conclusion.

A. In abnormal conditions, certainly; because the election of the church really makes him an elder or deacon.

Q. Do you know of any precedent on which to base that opinion? A. Do you mean any fact in history?

Q. Yes. A. I don't recollect any fact, but I reason it from the principles of the Christian Reformed Church Rules as laid down by Dort, where the Synod of Dort and then the Christian Reformed notes refer that the complaint should be offered against the nominees.

Q. Has it been your experience in the Christian Reformed Church that the deacons and elders hold over and continue in office until their successors are ordained and installed? A. It is generally the custom.

Q. Do you know of any exception to that rule ever having occurred? A. I don't recollect any just now, but it is possible, though.

Q. Do you really think that it is possible that such a circumstance ever occurred in your church? A. Certainly it is possible.

Q. Do you think it is possible that such an occurrence would be considered legal? A. Why, yes.

Q. When objections are interposed to the installation of a deacon and elder, is it lawful for the consistory to delay their installation or ordination? A. If the objections are presented at the proper time legally, it is.

Q. What is the proper time? A. The proper time is after they have been put up to the congregation as nominees, and then according to the Christian Reformed Rules, at the following consistory meeting.

Q. After the new elders and deacons have been elected for ordination, are their names published? A. Yes.

Q. For how long? A. Some announce them twice; some announce three times; I have had it myself that I installed them at the same time.

Q. When they were elected? A. Yes.

Q. Without any publication at all? A. Just the publication of the election itself.

Q. Do you understand that that is in accordance with the rules of Dort? A. That is what I said a while ago, that the election makes them elders and deacons.

Q. You recognize nothing in the Articles of Dort which requires publication of the names after the election? A. The publication is of the candidates.

There is a publication then. The Synod of the Christian Reformed Church rules that way.

Q. You recognize that the rules require publication of the names after election? A. Yes; the same as ministers being chosen, but not for calling any objections. When the minister is elected, that is also announced to the congregation; that is the regular custom.

Q. You do not consider it necessary to publish the names of the candidates for ordination, after their election and before their ordination? A. After their election it is customary to announce their names, but not to bring any objections against them, because the same rule applies to ministers and elders and deacons, and everybody would feel it beyond question that the name is published so that somebody could bring objection.

Q. What is the reason for delaying ordination after the election? A. They announced it, as I said before. It is a good custom—a person being elected, so that they have time to consider their appointment; so it is with a minister, so that he has time to consider his calling, and so has the elders and deacons.

Q. Do you understand that that is for the purpose of presenting objections? A. Not for the purpose of presenting objections. The presenting of objections should be as the Church Manual of the Holland Christian Reformed Church specifies—that is, when they are put up as candidates.

Q. In the service of ordination the announcement reads that no lawful objections have been offered, does it not? A. Certainly.

Q. Did you recite that at the time you intended to install these newly elected elders and deacons in the early part of January, 1912? A. I did.

Q. Was that true? A. Certainly it was true, because it says in the same announcement, "Lawful objection."

Q. You knew that objections had been offered to the consistory, did you not? A. I knew it by reports.

Q. You knew the consistory had voted to delay this ordination? A. That is a question. As far as my knowledge is concerned, I know at present that there was a vote taken, four to four, which was decided by the acting president, but I never regarded him as acting president, taking my place; it was not legal.

Q. You have stated that the report was made to you? A. I stated it as I had understood it at the time.

Q. You have no personal knowledge? A. No, because I was not at the meeting.

Q. Do you act as minister of the faction of the church, of which the defendant claims to be the consistory?

> Mr. Bradley: I object to the question upon the ground that it is irrelevant, incompetent and immaterial, and also upon the ground that it is not proper cross-examination, and also because it assumes a conclusion.

A. I act as minister of the organization which is known by law as the Christian Reformed Church, North Side, which is now ecclesiastically known as the Fourth Reformed Church, and that organization has also been examined by the Classis of Paramus according to Dort as the only organization.

Q. The organization to which you refer is the organization of the defendant's, Mr. Bast, and his associates? A. If you wish to put it that way.

Q. Is that organization a church of the Christian Reformed denomination? A. The church that I am minister of, do you mean?

Q. Yes. A. The congregation or organization is now connected with the Classis of Paramus, Reformed Denomination.

Defendants' Witness, Arie J. Van Den Heuvel, Re-direct

Q. (Repeated by stenographer.) Is that organization a church of the Christian Reformed Denomination? A. That organization is now a church of the Reformed Denomination.

Q. And the Reformed Denomination and the Christian Reformed Denomination are two separate religious denominations? A. Yes.

RE-DIRECT EXAMINATION by Mr. Bradley:

Q. What is the difference between ordination and installation? A. A minister of the Gospel is ordained but members of the consistory, elders and deacons, are installed.

Q. Ordination is necessary before the minister can preach the Gospel? A. Yes, sir; that is, not necessarily to preach the Gospel, but to administer the sacraments and to act in his office as a minister of that particular church.

Q. Ordination is not necessary for elders and deacons? A. No.

Q. Then, when counsel for the relators use the word "ordination" with reference to elders and deacons, it should have been the word "installation" should it not? A. "Installation," yes.

Q. How were you taken into the Classis of Paramus—by your own petition to them? A. By your own petition of the congregation with consistory and minister.

Q. The entire body represented by yourself, the consistory, including those who were installed on January 7th, and the congregation of the North Side Church at that time was accepted by the Classis of Paramus? A. It was; that is after a couple of meetings, of course. The dates can be looked up.

By Mr. Foulds:

Q. The services referred to by you on your cross-examination as the ordination or installation of the newly elected elders and deacons is the confirmation mentioned in Article 22 of the Articles of Dort, marked Exhibit R-3, is it not? A. Yes.

JACOB POPPEN, sworn as a witness on the part of the defendant, testifies as follows:

Direct-examination by Mr. Bradley:

Q. What is your profession? A. Minister of the Gospel.

Q. Of what denomination? A. Reformed Church in America.

Q. Are you familiar with the Holland language? A. I am.

Q. I show you the minutes of the North Side Christian Reformed Church which is marked Exhibit D-1, and I ask you what language these minutes are written in. A. The Holland language.

Q. Have you made a translation of several parts of these minutes in the English language? A. I have.

Q. (Showing witness.) I show you sheets of papers, and I ask you if those are translations of the minutes of the meetings of the consistory of the North Side Church, for October 31, 1910; October 23rd, 1911; October 30, 1911; November 20, 1911; December 19, 1911; January 4th, 1912; and the church meetings on November 24th, 1910; November 15th, 1911; December 27th, 1911; January 7th, 1912, and January 9th, 1912? A. Yes, sir.

Q. These are true translations of the contents of that minute book so far as they concern these meetings? A. They are.

Mr. Bradley: I offer these in evidence as translations of the minute book.

Mr. Foulds: I object upon the ground that so far as the minutes succeeding January 4th, are concerned, they are not the minutes of the North Side Church but are the minutes of the defendant.

Mr. Bradley: You do not object to the translations?

Mr. Foulds: I do not object to the translations, but it is understood that we will have the right, if necessary, to examine these translations.

I also request that the examination of witnesses on the part of the defendants proceed from day to day.

At this point an adjournment is taken to May 27th, 1912, at ten o'clock in the forenoon.

Pursuant to adjournment, the examination of witnesses on the part of the defendants, are continued this twenty-seventh day of May, 1912, at the office of George H. Dalrymple, Esq., in the Hobart Building, in the City of Passaic, N. J.

Appearances as heretofore.

JOHN ZYLSTRA-SISCO, one of the defendants, sworn as a witness on the part of the defendants, testifies as follows:

Direct-examination by Mr. Dalrymple:

Q. What is your full name? A. John Zylstra, also known as Sisco.

Q. Where do you live? A. Athenia, New Jersey.

Q. Are you one of the defendants in this case? A. I am.

Q. Are you a member of the North Side Christian Reformed Church, now known as the Fourth Reformed Church? A. The organization where I am a member is known by the laws of the State of New Jersey as the Christian Reformed Church of Passaic. This organization some time in March became ecclesiastically connected with the Reformed Church of America.

Q. How long have you been a member of that church? A. For about seven years.

Q. Were you a member of that church when it was first organized? A. Yes, sir; I was.

Q. Where did you previously belong—to what church? A. In the congregation known as the Hope Avenue Church.

Q. And what was the reason for organizing a new church of that denomination? A. The reason was because the church was too small.

Q. When you first organized, what part of the city did you go to? A. To Autumn Street.

Q. How long did you remain there? A. As well as I remember, nearly two years.

Q. And then where did you go? A. Then the congregation built a church on the corner of Myrtle Avenue and Burgess Place, in the City of Passaic.

Q. How long has that church been built? A. In the neighborhood of five years.

Q. Are you a member of the consistory of that church at the present time?

Mr. Foulds: I object upon the ground that the question calls for a conclusion.

A. I am.

Q. When were you elected? A. In November 15th.

Q. In what year? A. 1911.

Q. Were there others elected at that time? A. There were.

Q. Will you name them? A. I can name some of them.

Q. Just give us their names? A. John Zylstra-Sisco, Frank De Ruiter, Herbert Snoep, and W. S. De Vries.

Q. How many were elected at that time? A. Five.

Q. Who was the other one? A. Martinus Haakmeester.

Q. Are they at the present time members of the consistory of the North Side Church? A. Not all of them.

Q. Which ones are members? A. John Zylstra-Sisco, Frank De Ruiter and Martinus Haakmeester are the acting ones.

Q. What became of Snoep and De Vries? A. They resigned.

Q. Did you have another election? A. I was not in the consistory at that time.

Q. Do you know whether they did or not? A. I do. According to the publications they nominated Bangma, De Roos, Roosma and Harder.

Q. Was there a church meeting for the election of members to take the place of those two who had resigned? A. There was.

Q. Do you know when that was held? A. Some time in November; I do not remember the date.

Q. Can you recall who was elected? A. Re Roos and Roosma.

Q. Are they still in the consistory of the North Side Church? A. They are not acting.

Q. Why are they not acting? A. The disturbance in the congregation, I think, is the cause of their withdrawal.

Q. What do you mean by "withdrawal"? A. That they are not acting.

Q. Have they ever acted? A. They have.

Q. Has their withdrawal been by resignation, or how? A. They have sent in a kind of a resignation, but it has never been accepted.

Q. Now, can you recall the names of the present consistory—the whole consistory, including minister, elders and deacons; who constitutes the consistory? A. The Rev. A. J. Vanden Heuvel, Martinus J. Bast, John Groenhoff, John Zylstra-Sisco, Frank De Ruiter, Martinus Haakmeester, Leonard Wynbeek, Gerlof De Roos, although not acting, Siebe Roosma, although not acting, and Peter L. Vander Plaat.

Q. Has that consistory organized? A. It has.

Q. When did they organize? A. I think it is on the records of the minutes, but I do not remember the date.

Q. Who is acting as president? A. The Rev. A. J. Van den Heuvel.

Q. Who is acting as treasurer? A. Martinus Haakmeester.

Q. Who is your secretary? A. Martinus J. Bast.

Q. Have you held meetings continuously since you have organized? A. We have.

Q. Whereabouts? A. At the church edifice.

Q. Are you still holding meetings there? A. We are.

Q. It has been testified here that charges had been made against you; did you ever receive notice to that effect? A. No.

Q. Were you properly installed to your office as a member of the consistory?

Mr. Foulds: I object to the question upon the ground that the witness does not show himself to be qualified to answer the question. It

is not the proper method of proof. It calls for a conclusion.

A. I was.

Mr. Dalrymple: With consent of counsel, I will withdraw the question.

Q. You said that you have been a member of that church for a number of years? A. I have.

Q. Are you familiar with the forms of installation? A. I am.

Q. Have you ever been installed before January 7th? A. I have.

Q. Was the form with which you were installed on January 7th, the same form under which you had been previously installed? A. It was.

Q. After you were elected were you notified to present yourself to the church for installation? A. It was published from the pulpit.

Q. Is that the regular way? A. It is.

Q. When did that installation take place? A. January 7th, 1912.

Q. Was that order ever revoked? A. Not that I am aware of.

Q. Did the minister in charge that day sent by Classis install you? A. No, sir; he refused.

Q. After his refusal what was done? A. It was announced by the vice president of the consistory that the secretary called the congregational meeting. to decide whether or not the installation would take place that day.

Q. When was that announcement made? A. In the forenoon, after the morning service.

Q. Were you present when the vice president ordered the secretary to call the church meeting? A. I was.

Q. Was there a church meeting held in pursuance of that notice? A. There was.

Q. Who acted as secretary of that meeting? A. M. J. Bast.

Q. What were the matters that were discussed?

Mr. Foulds: I object upon the ground that the meeting is not shown to have been legally called.

A. It was discussed whether or not the newly elected consistory members would be installed that day and if so, how.

Q. What did they decide on?

Mr. Foulds: I object upon the ground that the meeting is not shown to have been legally called.

A. They unanimously decided that they would be installed.

Q. And did they decide who should install them? A. They did.

Q. Whom did they decide to install them? A. The Rev. A. J. Vanden Heuvel, their own minister.

Q. Was the Rev. A. J. Vanden Heuvel present at the meeting? A. He was called in after the congregation decided to install their newly elected consistory members.

Q. Were you with the other newly elected members of the consistory installed right then and there? A. I was.

Q. Do you know how many members were present at that meeting? A. Forty-nine.

Q. Did you count them? A. They were counted by the secretary.

Q. You do not know that of your own knowledge? A. No, sir.

Mr. Dalrymple: I withdraw the question.

Q. Who preached in the church on the following Sunday? A. The Rev. A. J. Vanden Heuvel.

Q. And he still continues to preach there? A. He does.

Q. Did you ever have any disturbance there in the church? A. We did.

Q. When, do you know? A. I think February 18th was one of the main disturbances.

Q. What was it? A. The Rev. E. J. Krohne from Paterson, together with Nick Hornstra and Herbert Prins and others.

Q. What did they do? A. They insisted upon having the Rev. E. J. Krohne preach there.

Q. Had the consistory of the North Side Church requested the Rev. Krohne to preach? A. They had not.

Q. Who had requested him to preach? A. To the best of my knowledge he was sent by the Classis of Hudson.

Q. When Rev. Krohne appeared there what happened? A. He was told by me not to enter the church edifice.

Q. What happened then? A. He refused to remain outside of the building and made an attempt to take possession of the pulpit.

Q. Did that create a disturbance? A. It did.

Q. What did those who were with Rev. E. J. Krohne do to endeavor to put him in the pulpit? A. Nicholas Hornstra addressed the congregation in the following manner, "Will you receive Rev. Krohne to preach here today?" And he was answered by a loud shout, "No."

Q. Did the Rev. E. J. Krohne remain in the church after that? A. He did for a time.

Q. For how long? A. I should judge for about an hour.

Q. Did the relators endeavor after that to have the minister of the Classis of Hudson preach at the North Side Church? A. They did.

Q. What was the result? A. The result was that one Sunday, in accordance with an agreement, the Rev. Bolt of Paterson did preach there.

Q. What do you mean by "by agreement"? A. That the parties known as Hornstra and others, and Bast and others, agreed upon that service.

Q. How was that agreement brought about? A. By order of the Chancery Court.

Q. Do you remember what Sunday he preached there? A. I think it was the first Sunday in March, if I ain't mistaken; I cannot say for sure the date.

Q. Was any service held at the church on Sunday, February 25th? A. There was not.

Q. Was there any service held in the church edifice on March 10th? A. There was not.

Q. Why was there no church service held there on that Sunday? A. Because the consistory was obliged by an order of the court to close the church edifice for fear of great disturbances.

Q. The consistory of the church made that application to the church? A. It did.

Q. Going back to February 18th, were you served with any papers in contempt to proceedings in the Court of Chancery after that Sunday? A. We were.

Q. Were you found guilty?

Mr. Foulds: I object upon the ground that the record is the best evidence.

A. I was not found guilty.

Q. What was the next Sunday that there were services held in the church? A. I do not remember the date.

Q. Do you remember how many Sundays the church was closed? A. I think two Sundays.

Q. During the time that the church was closed for services on Sunday who had charge of the building? A. The consistory.

Q. And when did the consistory decide to have it reopened for services and how was it brought about? A. There was an agreement made by both parties interested that the use of the church edifice be divided and the church reopened. This was done in accordance with an order of the Chancery Court, that the case be held in abeyance that either party should file a suit in the Supreme Court to decide who was the legal consistory.

Q. Have you been acting in that way since that time? A. We have.

Q. Was there ever any disturbance in the church except what was made by the relators? A. Not that I am aware of.

Q. Have you been to church every Sunday? A. I have been to about twelve services in seven years.

Q. Did the relators hold services in the church previous to the order of the Chancellor, dated March 28th? A. They did.

Q. On what Sunday did they hold service previous to March 28th? A. I know they held a service, the last of December, 1911.

Q. Was that a church service? A. It was. They held church services in 1911.

Q. Was that before or after that the North Side decided to withdraw from the Classis of Hudson? A. It was before.

Q. They held no church services in the church after the church decided to withdraw from the Classis of Hudson, until the order of the Court, dated March 28th, 1912? A. They did not, that I am aware of.

Q. Do you know where the relators known as Hornstra and others have held church services during that time? A. I know that they have held church services

in Prospect Street, Passaic, in a church of the Rev. Ghysels.

Q. Do you know how long they held services there? A. I should judge off and on for about six weeks.

Q. Did the relators ever attempt to go to the church after January 7th? A. They did.

Q. In what way? A. They not alone attempted to get in themselves, but also attempted to bring others in that did not belong there.

Q. How was that prevented? A. By a constable, Garret Geene.

Q. Was the constable working under the orders of the consistory? A. He was.

Q. Whom was he instructed to keep out? A. All that were not members.

Q. Did he prevent, in your presence, any members of that church from entering? A. Not in my presence.

Q. Did he prevent any others from entering? A. He did.

Q. Whom? A. He prevented Rev. Westenberg from entering.

Q. Had Rev. Westenberg any business there? A. He had not.

Q. Was any one else not a member prevented from coming in? A. There was.

Q. Whom? A. Rev. Krohne.

Q. At the same time? A. Rev. Krohne was prevented the same evening.

Q. Did the Rev. Garret Westenberg or Rev. Krohne make known to the consistory what they wanted? A. They did not.

Q. Had you any advance information that they were likely to come? A. I did not.

Q. How was it that you had the constable there at that time? A. That is through them.

Q. Eh? A. We had no knowledge thereof through them.

Q. I asked the question: Did you have any previous knowledge that they were likely to come to the church that evening? A. I had heard a rumor that an attempt was to be made to take the church out of our possession.

Q. Was that the reason that you employed the constable? A. It was.

Q. Has the consistory at any time, before or since January 7th refused admission to the church edifice to any member of that church? A. It has not.

Q. Has the North Side Church held services at any other church during this trouble since January 7th? A. It has held its morning services in Autumn Street.

Q. When was the first time that you held services in Autumn Street after January 7th? A. It was either the last of March or the first of April, I think.

Q. What was your reasons for holding the services there? A. Because the use of the church edifice was divided between the two parties known as Hornstra and others and Bast and others, and Hornstra and others held services on the first morning.

Q. At the time that the church edifice was closed on March 10, did you hold any services that Sunday in Autumn Street Church? A. I do not remember the dates.

Q. Did you hold church services in the Autumn Street Church before the order of the Court of Chancery, dated March 28th, confirming the agreement between the consistory and Hornstra and others? A. There were so many orders made that I do not recollect.

Q. Do you recollect the first date of holding services in the Autumn Street Church? A. The first date that we held services in the Autumn Street Church

was the first Sunday after we were accepted in the Classis of Paramus.

Q. When were you accepted in the Classis of Paramus? A. We were admitted into the Classis of Paramus March 21st, 1912.

Q. Did you ever change the locks on the North Side Church edifice? A. They have been changed on part of the doors, but I did not do it.

Q. Did you know that they were changed? A. I did.

Q. What doors? A. On the doors of the consistory room.

Q. Who used those doors, do you know? A. The consistory.

Q. Why were those locks changed? A. Because there had been money taken out of the safe, which was contrary to the orders of the consistory and the rules of that organization.

Q. Who knew the combination of that safe? A. Martinus J. Bast and Leonard Wynbeek.

Q. Do you know which one of them took that money? A. According to a statement made—

Q. (Interrupting.) You cannot tell what any one told you. Do you know of your own knowledge who took that money? A. Only from Reinstra.

Q. Did any others ever attempt to come into the consistory room who didn't belong there? A. They did.

Q. Who was it? A. Pontier was one.

Q. Had he any business there? A. He had not.

Q. You refused him admittance? A. I did.

CROSS-EXAMINATION by Mr. Foulds:

Q. I understood you to say, Mr. Zylstra, that you had refused Mr. Pontier admittance to the church at one time? A. I did.

Q. I also understood you to say that you had never refused admittance, to any members of the church; is that true?

Mr. Dalrymple: I object to the form of the question. He did not say that.

A. I never refused any admittance to the church edifice—that is, where the worshipping is done—only to those who had no business there, at times when nobody was supposed to be there but those who belonged to the consistory. Mr. Pontier was told, in regard to the reason why he came to the consistory room door, that he could receive his books, which I understood to be the reason of his presence there, from the janitor.

Q. Your answer is rather involved. Is it the fact that you did or did not exclude church members from the building? A. I did not say the building.

Q. (Repeated by stenographer.) Is it a fact that you did or did not exclude church members from the building? A. I did exclude Pontier from entering the consistory room at a time when the consistory was there doing their work as consistory.

Q. Have members of the church a right to attend consistory meetings? A. Yes, so long as it is a consistory meeting.

Q. (Repeated by stenographer.) Have members of the church a right to attend consistory meetings? A. Not at all times.

Q. Did you at the time Rev. Westenberg and Rev. Krohne were excluded from the church edifice prevent Mr. Pontier from entering the church? A. I did not.

Q. You recall Mr. Pontier being in the consistory room at that time? A. I do.

Q. Do you recall Mr. Pontier endeavoring to pass into the church proper from the consistory room at that time? A. I do.

Q. And do remember excluding him at that time? A. I do not.

Q. Why did he not enter the church room at that time? A. Not because I prevented him.

Q. Did you see some one prevent him? A. I did see him converse with the janitor.

Q. You have spoken of the locks being changed on the doors of the consistory room. Is it not a fact that those are the only doors which afford entrance to the church building, except the front doors upon which there are bolts on the inside? A. The only entrance to the church is by the way of the consistory doors and the front door, but I do not know whether there are bolts on the inside of the front door.

Q. Are your services conducted by one who is now under expulsion from the Christian Reformed Church? A. Not under lawful expulsion.

Q. What do you mean by that? A. I mean that the consistory or those who claim they are the consistory acted in expelling him, had no power to do so.

Q. Do you or not know it to be a fact that the consistory is not the body which expelled the minister? A. I know that no other body should separate from the consistory.

Q. Are you at all familiar with the church government? A. A little bit.

Q. Have you ever heard of the power of Classis to take action in the matter on charges against the minister? A. I have heard of such powers, but whether they exist I am not fully aware.

Q. You do not know the manner in which they are to be exercised, if they do exist? A. I do.

Q. How do you know that? A. By the rules of the Christian Reformed Church of America.

Q. Have you ever studied those rules? A. A little bit.

Q. Do you know of any action of Classis of Hudson expelling the minister you now employ?

Mr. Dalrymple: I object to the question upon the ground that it is irrelevant and incompetent.

A. I do know of an illegal one.

Q. Why do you say it was illegal? A. Because it was not done in accordance with church government.

Q. What particular provision of the church government was violated? A. That such action should arise from the congregation and consistory.

Q. Can you point out the provision in the church rules? A. I can.

Q. Will you do so? I hand you Exhibit R-5 and Exhibit R-3. A. I do not know just which one it is, but I know there is an article in that order that states that the chosing of officers belongs to every particular congregation of saints.

Q. I am speaking of the expulsion of a minister. A. That explains that if a Classis decides to expell a minister of the congregation and the consistory decides to detain or continue their minister in office, that the Classis have no power to rule against the consistory and congregation.

Q. But you cannot point out any certain rule? A. That is the rule.

Q. You cannot point out any such rule? A. That is the rule.

Q. You cannot point out the rule? A. I have pointed it out plainly.

Q. Do your church rules provide for an appeal from an action of Classis which is admittedly unlawful to a Supreme Church body, the Synod? A. It does.

Q. Was any of appeal taken from this action expelling the minister, to Synod, or to any other body?

Mr. Dalrymple: I object to the question, because we have the minister here, and he can answer for himself; also upon the ground that it is not proper cross-examination; there was nothing brought out in the direct-examination which referred to it at all.

A. There was an appeal made by the congregation to the Synod.

Q. Is that appeal still pending? A. It is not because the Classis ignored the congregation in their appeal.

Q. How was that appeal taken? A. To leave their minister remain and have the Synod decide the question in dispute.

Q. Was that appeal taken after your minister was expelled? A. It was taken before.

Q. Then, there has been no appeal from the action in expelling him? A. There has.

Q. When? A. At the meeting when they decided to press a vacation of over six months on our minister.

Q. Was that before he was expelled? A. It was.

Q. And nothing since? A. And I think there is an appeal from the consistory of the same denomination who have appealed to Synod, which is still pending.

Q. An appeal from the consistory to Synod direct? A. I do not know whether this appeal is personal or whether it concerns the body as the consistory.

Q. Where did you get this information? A. At the Classis.

Q. What Classis? A. At the Classis held December 13th, 1911.

Q. Does your so-called consistory pretend to act as a consistory of the Christian Reformed denomination? A. It acts as a consistory of the organization known as the Christian Reformed Church of Passaic.

Q. Does your so-called consistory pretend to act as a consistory of the Christian Reformed Denomination? A. The consistory of the organization known as the Christian Reformed Church of Passaic having been ecclesiastically connected with the Reformed Denomination, and having been entered in the books of the said denomination as the Fourth Reformed Church of Passaic, act according thereto.

Mr. Foulds: Counsel for relators moves to strike out the answer as not responsive, and repeat the question.

Q. (Repeated by stenographer.) Does your so-called consistory pretend to act as a consistory of the Christian Reformed Denomination? A. It does not, but it does act as the consistory of that organization.

Q. Do you consider yourselves a part of the Christian Reformed Church of America? A. I consider myself a member of the North Side Christian Reformed Church of Passaic.

Q. (Repeated.) Do you consider yourselves a part of the Christian Reformed Church of America? A. When an individual becomes a member he does not become a member of a denomination, but becomes a member of an organization.

Q. Are you worshipping under the denomination "Christian Reformed Church of America"? A. I am not worshipping under the denomination of the "Christian Reformed Church of America," but I am a member worshipping under and in connection with the organization known as the Christian Reformed Church of Passaic.

Q. Are any of the members of the so-called consistory of which you are a member, within the denomination known as Christian Reformed Church? A. Not since we have ecclesiastically connected ourselves with the Reformed denomination.

Q. Then, all of the members of your so-called consistory have left the Christian Reformed Denomination and have entered a separate denomination known as the Reformed Denomination; is that true? A. The organization known as the Christian Reformed Church of Passaic in a lawful meeting held on January 7th, 1912, they decided to sever their connection with the Classis of Hudson of the Christian Reformed Church of America, and became thereby an independent congregation, after which, in March, we were ecclesiastically connected with the Reformed Church of America.

Mr. Foulds: I object to the answer upon the ground that it is not responsive, and I move that it be stricken out.

Q. (Repeated.) Then, all of the members of your so-called consistory have left the Christian Reformed denomination and have entered a separate denomination known as the Reformed denomination; is that true? A. Since January 7th, 1912, the organization known as the Christian Reformed Church of Passaic was not connected with the Christian Reformed Church of America.

Mr. Foulds: I object to the answer and move that it be stricken out. I will have the question repeated.

Q. (Repeated.) Then, all of the members of your so-called consistory have left the Christian Reformed denomination and have entered a separate denomination known as the Reformed Denomination; is that true? A. That is not true in accordance with that statement.

Q. In what respect is my question incorrect? A. Because you used the words "has left" which would come by the action of an individual, but there has been

no individual action taken, but the act of the organization has been taken, which disconnected them from the Christian Reformed Church, and afterwards they did by a lawful act of the congregation connect themselves with the Reformed Church of America.

Q. Then, have all of the members of the so-called consistory disconnected themselves from the Christian Reformed denomination and entered another denomination known as the Reformed Denomination? I ask for a yes or no answer. A. The congregation known as the North Side Christian Reformed Church, with its ministers, elders and deacons, and members, have seceeded from the Christian Reformed Denomination and have ecclesiastically connected themselves with the Reformed Church of Passaic.

Q. (Repeated.) Then, have all of the members of the so-called consistory disconnected themselves from the Christian Reformed Denomination and entered another denomination known as the Reformed Denomination? I ask for a yes or no answer.

Mr. Dalrymple: I think the question has been properly answered.

A. They have not done so as a certain number of members or as a consistory, but they have done so as an organization and have been accepted as such by the Reformed Denomination.

Q. Is there any member of your so-called consistory who is still connected with the denomination known as the Christian Reformed? A. Not that I am aware of.

Q. You are connected in any way with that denomination? A. Not with the denomination, but I am connected with the organization known as the Christian Reformed Church of Passaic.

Q. In what manner was this so-called meeting of January 7th, 1912, which you have referred to, called?

A. In accordance with the manner that meetings are called in that denomination.

Q. What was that manner? A. That the president or vice president order a meeting called, and order the secretary to do the same.

Q. How much notice of that meeting was given; how long a notice of that meeting was given? A. I could not say exactly how long. I know that the meeting was held in the afternoon when the announcement was made to the congregation, which was then present in the forenoon.

Q. Then, I am to understand that an oral notice was given at the morning session to such members of the church as might then be present, and in accordance with that notice a meeting was held in the afternoon of the same day at which action was taken severing the connection of the North Side Church from the chosen denomination, the Christian Reformed? A. These persons were notified in the above mentioned manner and those that were not present were notified by persons who considered a notice thereof necessary to all members known not to be present at that meeting.

Q. Then, you mean that in addition to the notice given at the service on January 7th, that some members of the church were notified orally to be present at the meeting in the afternoon? A. What do you mean by "orally"?

Q. By word of mouth? A. Yes.

Q. Then, no one had more than three or four hours' notice of that meeting? A. Not of that meeting, but they did of—

Q. (Interrupting.) After that notice of the meeting that was given on January 7th, was it announced from the pulpit that no meeting of that nature would be held that day? A. Not from anybody that had business there.

Q. But was such notice given? A. Not legally.

Q. Was such notice given? A. Not legally.

Q. (Repeated.) Was such notice given? A. Such notice was given illegally.

Q. Was the meeting of January 7th to which you have referred called by the consistory of the North Side Church? A. It was called by the acting president and the secretary.

Q. Did the consistory of the North Side Church authorize that meeting? A. Not in my presence.

Q. Do you know whether the consistory did or did not authorize that meeting? A. I don't know.

Q. Was there a meeting of the consistory held on January 7th? A. No other than the usual meeting before the morning service.

Q. Were you present at that meeting? A. I was.

Q. Was any action taken at that meeting with reference to the afternoon service to which you refer? A. There was.

Q. What was that action? A. That the president ordered the secretary to call a meeting after the afternoon service.

Q. That action was taken during the meeting of the consistory during the morning of January 7th, was it? A. It was.

Q. Were any matters decided upon by the consistory to be brought before that meeting on January 7th? A. The president of the consistory ordered that the secretary call that meeting and to announce that the congregation be called together and decide whether or not their lawfully elected elders should that day be installed—yes or not.

Q. Was any other subject-matter named in the call for this meeting of January 7th? A. I do not understand.

Mr. Dalrymple: I admit that the call for the meeting of January 7th no subject-matter

was named except the matter of installing the newly elected elders and deacons.

Q. Then, the action of this part of the congregation that met on January 7th in the afternoon, so far as they attempted secession from the denomination from the Christian Reformed Church was concerned, was taken without any previous notice whatever, was it? A. A notice was made by a member or members of the congregation that the congregation withdraw from the Classis of Hudson, and that opportunity be given at another meeting at which members not being present there might oppose or also might confirm the action.

Q. After this meeting of January 7th was a suit brought in the Court of Chancery concerning the members of your so-called consistory by the relators here, praying that you be restrained as acting members of the consistory?

Mr. Dalrymple: I think the record is the best evidence of that.

A. Yes, sir; and the Chancellor refused to do it.

Q. That suit is still pending, is it not? A. It is held in abeyance to have the Supreme Court to decide.

Q. You have never filed any answer in that suit, have you? A. I do not understand the meaning of your question.

Q. After January 7th did you station armed guards at the church building? A. What do you mean by "armed guards at the church building"?

Q. I mean persons armed and in the church to prevent the relators or others from obtaining possession of the church. A. The relators were at all times privileged to use the church edifice in accordance with the laws and rules laid down for that purpose.

Q. (Repeated.) After January 7th did you station armed guards in the church building to prevent the

relators or others from obtaining possession of the church? A. The church edifice was at all times open to all the members for their use according to the rules and regulations in accordance with its dedication.

Q. (Repeated by stenographer.) After January 7th, did you station armed guards in the church building to prevent the relators or others from obtaining possession of the church? A. I do not remember where the relators have ever attempted to take possession of the church except one evening when it appeared very much as though that was their intention and which evening all that were members were allowed to enter the church building.

Q. (Repeated by stenographer.) After January 7th, did you station armed guards in the church building to prevent the relators or others from obtaining possession of the church? A. Not that I am aware of.

Q. Were you served with this injunction in the Court of Chancery which I show you dated February 21, 1912? A. I do not remember ever receiving an order of that kind.

Mr. Foulds: Injunction shown to the witness is marked R-10 for identification.

Q. Do you remember being served by any one with an injunction of the Court of Chancery in this North Side Church matter? A. I do not remember that I was.

Q. Do you remember being notified of any restraining order of the Court of Chancery with reference to the use of the church edifice for any purpose other than that of the Christian Reformed Denomination? A. Not that I am aware of.

Q. Do you remember being served with an order to show cause whether you should not be punished for

contempt for violating an order of the Court of Chancery? A. I believe I was.

Q. Were you present at the services which formed the basis of that application to punish for contempt? A. I was.

Q. That was on Sunday, February 18th, 1912, that that service was held, was it not? A. I think it was.

Q. Do you remember that on that Sunday morning, February 18th, 1912, one of the defendants, De Ruiter, sat in the pulpit smoking his pipe?

Mr. Dalrymple: I object to the question upon the ground that it is irrelevant and also upon the ground that it is not cross-examination.

A. I did not see the person whom you refer to as smoking a pipe.

Q. Did you see, on that Sunday morning, another of the defendants, Martinus Haakmeester sitting in the pulpit with a cup of coffee in one hand and a sandwich in the other, eating his lunch?

Mr. Dalrymple: I object to the question upon the ground that it is not cross-examination and also upon the ground that it is irrelevant and not germane to the issue.

A. I did not, but I did notice different ones in the back room known as the consistory room having coffee and sandwiches there.

Q. You have spoken of an agreement between these parties as to the divided use of the church edifice. Did your so-called consistory at any meeting decide upon this plan? A. It was consulted with their attorney in regard to such a plan.

Q. After the meeting of January 7th, 1912, to which you have referred you stated that the so-called action of the congregation was unanimous.

Mr. Dalrymple: What have you reference to, in reference to the installation or with reference to the membership?

Mr. Foulds: In reference to any action that took place at that meeting.

Mr. Dalrymple: I object to the question as being indefinite. It does not specify what action, it has reference to, and several matters were discussed at that meeting.

A. In accordance with the tally of that secretary there were forty-six in favor and two opposed and one blank

Q. What was the membership at that time?

Mr. Dalrymple: I object to the question upon the ground that the witness does not know.

A. I don't know.

Q. Was there more than half of the membership present, in your opinion? A. In accordance with the statement of the secretary there was.

Q. After elders and deacons are elected do you know to whom their resignation, if they resign, is to be tendered? A. I think to the consistory.

Q. Then, it is your understanding that the consistory has greater power than the congregation?

Mr. Dalrymple: I object to the question as not germane to the issue.

A. The consistory has no power without the congregation.

Q. What power then, has the consistory to accept the resignation of elders and deacons chosen by the congregation? A. I do not know as there has been resignations accepted in regard to the persons connected in this case.

Q. You have said Messrs. Snoep and De Vries resigned. Were their resignations submitted to the congregation by the consistory? A. They were sent to the consistory.

Q. Do you consider that to be in accordance with practice of the Christian Reformed Church? A. I do.

Q. Then is it your opinion that consistory has power to accept resignations of those elected after their election? A. Not disconnected from the congregation.

Q. Was the matter of the resignation of the Messrs. Snoep and De Vries ever presented to the congregation? A. I do not know that it has ever been accepted by the consistory. I think I have stated before that it has not.

Q. First you said that De Roos and Roosma were elected in the place of the Messrs. Snoep and De Vries? A. I don't think that I said that.

Q. Is it a fact that Messrs. De Roos and Roosma were elected in the place of the Messrs. Snoep and De Vries? A. Yes.

Q. Is it not a fact that Messrs. Snoep and De Vries communicated the fact of their resignation to the consistory only and not to the congregation? A. It would not be in accordance with the custom of that denomination to present it to the congregation.

Q. Is it not a fact that that was done here? A. I was not in the consistory when the resignation, if there was any, by Snoep and De Vries, was presented to the consistory. What I have reference to is the resignation of Roosma and De Vries.

Q. When these two men, Snoep and De Vries, as appears by the minutes of November 20, 1911, refused to act, did that make their office vacant? A. I do not know the decision of the consistory. I was not in the consistory at the time.

Q. Would their statement that they would not act make their office vacant without any action by the consistory? A. In one way it would, and in another way it would not.

Q. What do you mean? A. I mean if an action to refuse to serve was taken by the persons in question, they certainly would not accept their office, and in such a way they would not practice that which they were called to do by the congregation.

Q. At the time that Snoep and De Vries communicated their refusal to accept these offices they had not been installed, had they? A. I don't think they had.

Q. And until they were installed they had no offices, had they? A. They did if they were elected.

Q. Without being installed? A. Yes, sir.

Q. Then, their mere statement that they would not serve, without any action on the part of the consistory, was sufficient to make their office vacant, was it? A. If they made it sufficient, it was.

Q. Did De Roos and Roosma resign in the same way? A. I don't know in what way De Vries and Snoep resigned.

Q. In what way did De Roos and Roosma resign? A. On paper.

Q. Did they present a formal resignation? A. What do you mean by formal resignation?

Q. I mean a written resignation in proper form? A. I don't know as North Side has a proper form for the purpose; I have never seen it.

Q. You don't know, then, what constitutes a resignation? A. None other than I have already mentioned.

Q. You say that your so-called consistory has organized. At about what time did that organization take place? A. Shortly after their installation.

Q. Do you mean shortly after January 7th, 1912? A. I mean shortly after their installation.

Q. Do you consider the date of their installation, January 7th, 1912? A. In what manner?

Q. In any manner? A. I consider it legally.

Q. You mean that your so-called consistory organized shortly after January 7th, 1912? A. They did.

Q. After that date did they dissolve and reorganize as a consistory of the Reformed Church? A. They were accepted as a consistory and their congregation as an organization, consisting of the minister, elders and deacons, with its congregation, in the Reformed denomination.

Q. You said on your direct-examination that your so-called consistory has held meetings continually at the church edifice since its organization; is that true? A. It is true.

Q. Has your consistory not held meetings elsewhere than at the North Side Church edifice? A. No meetings as a consistory.

Q. During the period when the church was closed, did your so-called consistory hold meetings at the church edifice? A. It seems it was not necessary to hold consistory meetings during that period of time.

Q. Then there was a period of three weeks when your co-called consistory held no meeting? A. I think that the order of the Court was that no congregational services should be held at the church edifice. I am not sure that there were no consistory meetings held during that time.

Q. Did you receive a notice of a double consistory meeting held on or about January 8th, 1912? A. I did not.

Q. Do you know of any action taken by the authorities of the Christian Reformed Church to put you under church censure? A. I do not know that there were any authorities outside of the consistory of which I am a member that had authority to do so.

Q. Do you know of any action taken on January 9th, at a meeting of the consistory of the North Side Church, at which it was resolved that the particular members of the congregation be put in the first step of church censure because they propagated schism in the congregation? A. There was no meeting of the consistory held on January 9th.

Q. You refer to your own so-called consistory, do you not? A. I know of no other.

Q. Was this resolution which I have just mentioned ever called to your attention before? A. I did receive a letter from a certain Prins, president, and Pontier, secretary, who unlawfully took upon themselves the power to apply censure.

Q. Where is that letter now? A. It is in the possession of the Rev. Poppen, if I am not mistaken.

Q. By that letter you were notified of an action to be taken by the consistory of North Side? A. I did not consider it an action.

Q. Did you ignore that notice? A. In what manner?

Q. In any manner? A. In which way could it be ignored?

Q. To ignore means to pay no attention to it. A. I certainly paid no attention to it.

Q. Why? A. Because it was of no value, nor of any injury.

Q. Why was it of no value? A. Because it was done by individuals who had no power to do so.

Q. That was the only objection that you made to it? A. I made no objection.

Q. Your only objection to that notice was that you did not recognize the power of the persons named? A. There was no power to be recognized.

By Mr. Dalrymple:

Q. In your cross-examination you spoke about the unanimous vote at the church meeting on January

7th. Now, which vote did you refer to—the vote taken to secede from Classis Hudson, or the vote to instal the newly elected consistory members? A. The thing in question was announced before the congregation when it was present, and it was reannounced—

Q. (Interrupting.) You did not get the question. I will repeat it. You spoke about a unanimous vote at the church meeting on January 7th. Which vote did you refer to—the vote to secede from Classis Hudson, or the vote to install the newly elected consistory members? Which was the unanimous vote—the secession or the installation? A. The secession and the installation were taken with one and the same vote. The question was placed before the congregation whether or not their newly elected elders would be installed that day—yes or no, and if so, then how? A motion was made by a number of members of the congregation that the congregation sever their connection from the Classis of Hudson, call their own minister from the parsonage and install their elders and deacons.

Q. Was the resignation of De Roos and Roosma made before or after their installation? A. After their installation.

Q. Were you and the other defendants punished for contempt of court for the action that took place in the North Side Church on February 18th? A. We were not. The vice-chancellor did not find our action a contempt of court.

Q. In reference to the consistory meeting held between February 18th and April 1st, the minutes would show, would they not, if they were held in the church?

Mr. Foulds: Objected to on the ground that the witness is not shown to know anything about what the minutes show; his testimony is not the best evidence.

A. I don't think it would be at all times mentioned in the minutes where the consistory met, as it does not always follow that method.

Q. But if the minutes do show that the consistory was held in the church edifice, it would be a fact, would it not?

Mr. Foulds: Objected to upon the ground that the witness is not shown to have knowledge of the fact inquired into.

A. It would.

Q. Was there an order made closing the church edifice? A. There was.

Q. Do you know when that order was made? A. I think it was made February 25th.

Q. That closed the church? A. That closed the church.

By Mr. Foulds:

Q. Was more than one vote taken at that so-called church meeting on January 7th? A. I think the minutes would be the best in regards to that.

Q. What is your recollection? A. I don't remember.

Q. Did you participate at that meeting? A. I did.

Q. Do you remember whether you took more than one vote? A. I don't think there was more than one vote taken.

Q. Do you remember how you put that question? A. As I stated before.

Q. Will you please repeat it now as you recall having put it at that time? A. That the congregation decide whether or not their newly elected elders and deacons should, on that day, be installed as was announced, yes or no, and if so, then, how?

Q. Was there anything further said with reference to leaving the denomination? A. I have already stated just exactly what you ask me now.

Q. Then, the question as to whether or not the church would leave the denomination was not put at that meeting, as you recall it?

Mr. Dalrymple: I object to that. The witness has answered the question before.

A. I said that the motion to that effect was made from the congregation.

Q. Did you, as presiding officer, put the question to a vote? A. I did in its whole?

Q. What I wish to know is this—what you put to the congregation to vote on? A. Just as I have, I think now twice, expressed it.

Q. You have said that you asked the congregation and the persons present to vote, yes or no, as to whether an installation should be held? A. And if so, then how?

Q. Did you put in that same resolution the question as to whether or not the relations of the congregation with the denomination should be severed? A. That motion was made by the congregation with how that should be done.

Q. Then, as I understand it, the entire matter was determined by a single vote, is that correct? A. No.

Q. Was there more than one vote put? A. There was no vote taken on January 9th—

Q. (Interrupting.) I am talking about January 7th— A. (Interrupting.) At which the meeting of January 9th approved the minutes and the action taken by the meeting of January 7th.

Mr. Foulds: I object to the answer as not responsive, and I move that it be stricken out.

Q. Will you tell us whether the entire action of the meeting of January 7th was embodied in one resolution? A. I think that the minutes will be the best proof, to that effect.

Q. I am asking you for your recollection. Will you tell what your recollection is? A. As far as I recollect, it was taken in one action.

By Mr. Dalrymple:

Q. Was that vote taken by calling out the names, or not? A. By calling out the names.

Q. And each one responded as his name was called? A. Yes.

By Mr. Foulds:

Q. Were the names called from the church roll? A. They were called as they were present there.

Q. That is, the secretary recognized the persons there and called the names of the persons he recognized; is that correct? A. All that were recognized were lawful members of the organization.

Q. And only the names of those present were called who happened to be recognized by the secretary? A. The secretary did not call the names. The members themselves mentioned their own names.

Q. That is, each member arose in his place, announced his name and announced his vote? A. They did.

By Mr. Dalrymple:

Q. One more question. In reference to the calling of a church meeting, is there any rule in your books by which a church meeting shall be called?

Mr. Foulds: I object upon the ground that the witness has already stated that his knowledge is meagre.

Q. What has been customary in reference to the calling of a church meeting?

Mr. Foulds: I object upon the ground that the witness has stated that his knowledge of

church law is very meagre, and he has not shown himself to be familiar with the church rules or customs.

Q. What have they usually done when they called a church meeting?

Mr. Foulds: I repeat my objection on the ground that the witness has stated that his knowledge of church law is very meagre and he is not shown to be familiar with the practice of the church.

A. The consistory makes provision for that purpose as they see fit and most beneficial to the congregation.

Q. As to the length of time given for a notice, what is the usual time for calling church meetings? A. There is no usual time.

Q. Could a church meeting be called in the morning and held in the afternoon? A. It could.

Q. Has it ever been done before? A. Not in my presence of being in the congregation.

Q. Has a meeting ever been called when you were in the congregation to hold a church meeting on the same day? A. There have been congregational meetings held right after they have been announced the same day at the services.

Q. How long a time would there be in between the giving of the notice and the meeting? A. I do not know of any sufficient time necessary.

Q. I mean the time that you speak about? A. The meeting is announced at the service, and the service is closed and the meeting held.

Q. About fifteen minutes? A. Yes.

Q. This meeting, was it announced to those who were there then, that an opportunity would be given to those who were not present to vote on the question, yes or no?

Mr. Foulds: Objected to.

A. Yes.

By Mr. Foulds:

Q. What was the subject acted upon at this meeting that you say was called on short notice? A. I remember that at a service there was mentioned to the congregation that they continue in their pews until after the service had been completed, as the congregation has work to do concerning the congregation.

Q. Do you remember what the work was? A. Yes; I remember applications being signed.

Q. For what purpose? A. For a purpose to plead to the Classis of Hudson.

Q. Were these meetings always called by the consistory? A. Usually called by the minister or by the secretary, or whichever the consistory might appoint to do so.

Q. Do you know of any meetings of the congregation prior to January 4th ever having been called, other than by the consistory? A. I do not remember that there was a congregational meeting for January 4th called. I do not know as it has been done, but I think that members of the congregation have a perfect right to ask the consistory that a meeting be called.

At this point the further taking of depositions is adjourned to May 29th, 1912, at seven o'clock in the evening.

Defendants' Witness Christoffel Bergsma, Direct

Pursuant to adjournment the taking of depositions in the above stated cause, is resumed this twenty-ninth day of May, A. D., 1912, at eight o'clock in the evening, at the office of George H. Dalrymple, Esq., in the City of Passaic, N. J.

CHRISTOFFEL BERGSMA, sworn as a witness on the part of the defendant, testifies as follows:

Direct-examination by Mr. Dalrymple:

Q. (Showing witness.) I show you a notice. What language is that written in? A. It is in the Holland language.

Q. Do you understand that notice in the Holland language? A. Yes.

Q. Can you translate the same into English? A. Yes.

Q. Have you done so? A. Yes.

Q. (Showing witness.) I show you an English translation. Was that made by you? A. Yes.

Q. Is that a true translation in English of this notice in the Holland language? A. As near as I can, yes.

Mr. Dalrymple: That translation reads as follows:

"Passaic, N. J., January 8th, 1912.

"We, undersigned, members of the North Side Christian Reformed Church of Passaic, N. J., members in full communion, call a consistory meeting to be held Tuesday evening, January 9th, 1912, at 8 o'clock, in the church building on the southwest corner of Myrtle Avenue and Burgess Place, Passaic, N. J., with the intention to decide concerning the relations

in the case of severing from Classis Hudson, and what further lawfully may be brought before the gathering.

"Nicholas Rienstra, John M. Ward, Theodore Bergma, Leonard Fisher, Cornelius Van Vleet, Jetze Pruiksma, Cor. Ph. Van Zendren, William Knipers, William Heemstra."

Mr. Dalrymple: I offer this in evidence.

Paper is marked Exhibit D-4.

Mr. Foulds: I reserve my right to object to this unless it is connected or made relevant. I have no cross-examination now.

JOHN ZYLSTRA-SISCO, one of the defendants, already sworn as a witness, recalled and further examined as follows:

Direct-examination by Mr. Dalrymple:

Q. You said that you were chairman of the meeting of the church held on January 7th, 1912? A. I was.

Q. And in the course of the proceedings at that meeting was there any provision made for allowing members to come in and vote either for or against the proposition?

Mr. Foulds: I object to the question on the ground that it is leading.

Mr. Dalrymple: Question withdrawn.

Q. What provisions, if any, were made for any future vote on that question of seceding from Classis Hudson? A. That an opportunity be given those that

were not present to vote in favor of or against the action.

Q. What method, if any, did you pursue to have that vote taken? A. We consulted our attorney in which way we should call a meeting.

Mr. Foulds: I object to any conversation with anyone not a party to this litigation.

Q. What did you do after consulting your attorney? A. We followed out his instructions.

Q. What were those instructions?

Mr. Foulds: I object.

Mr. Dalrymple: Question withdrawn.

Q. What did you do in reference to calling any meeting? A. According to the instructions of our attorney, we notified certain members to call that meeting on Tuesday, January 9th, 1912.

Mr. Foulds: I object to the answer on the ground that it purports to state interviews with persons not parties to this litigation, and not binding on these relators, and I move to strike out the answer.

Q. Did you call another meeting of the congregation of the North Side Church? A. We did in connection with those members who signed the notice.

Q. (Showing witness.) I hand you a notice written in Holland; is that the notice? A. That is the notice that was served.

Mr. Foulds: I object to the answer on the ground that the witness is not shown to have any knowledge of the matter testified to.

Q. Is that the notice that was prepared by your instructions? A. Yes.

Q. Why was this notice prepared?

Mr. Foulds: I object to the question upon the ground that it is irrelevant, incompetent and immaterial.

Mr. Dalrymple: Question withdrawn.

CROSS-EXAMINATION by Mr. Foulds:

Q. Was any entry of the resolution pursuant to which this meeting was called made in any book, of your knowledge? A. Not to my knowledge.

Q. Why was no entry of this resolution made? A. I don't know whether there was any made.

By Mr. Dalrymple:

Q. Did you serve any of these notices on any one? A. No, sir.

THEODORE PRUIKSMA, sworn as a witness on the part of the defendants, testifies as follows:

Direct-examination by Mr. Dalrymple:

Q. (Showing witness Exhibit D-4.) I show you a copy of a notice. Do you know what that notice is? A. Yes, sir.

Q. Can you read Holland? A. Yes, sir.

Q. Did you serve that notice on any members of the North Side Christian Reformed Church? A. Yes.

Q. When? A. On Monday night, the seventh of January.

Q. Have you got a list of the names of the persons on whom you served this notice? A. I have.

Q. Will you read that list? A. Johannes Hoedema, Hendrik Vander Groef, Peter Vander Hey, Berrend Krotje, Lambert Spaanstra, Johannes Groenhof, Genenis Nuis, Naarten Van Beveren, Hendrik Van Re-

ken, William Atsma, Peter F. de Jonge, Jacob Thomas, Lieuwe Bongma, Leffert K. Oesterhout, William Kuiper, Cornelius Van Handel, Cristian F. R. Clever, Jacobus Ten Hoeve.

Q. Do you know the ones that you served personally? A. Yes.

Q. Did you serve the notices individually or leave it at their houses? A. There were some, of course, that I had to give to the Mrs. in the house, and they told me that their husband would get it.

Q. It was their dwelling house? A. Yes.

Q. So that they were all handed to them personally or left at their usual place of abode? A. I left it with the understanding that they would see the husband would get it.

Q. You left it at the house? A. Yes.

CROSS-EXAMINATION by Mr. Foulds:

Q. You swore in an action between J. Zylstra and others, complainants, and Aire J. Vanden Heuvel and others, defendants, in the Court of Chancery, on February 14th, 1912, that you had also served a copy of this notice on Edward P. L. Lazarus, Hendrick Haakmeester, Cornelius Van Genderen and John Regnery?

Mr. Dalrymple: I object to the question as immaterial and irrelevant.

A. No, sir; I did not.

Q. I show you this affidavit. Is not that a copy of an affidavit that you swore to on that date? A. That was the way it was given to me, and before I would swear to it, I objected, because I know what swearing is, to these which you have mentioned, and Mr. Veenstra swore another affidavit to hold me up on this that you say I admitted to.

Mr. Foulds: I object to the answer and move that it be stricken out upon the ground that it is not responsive.

Q. Then is it true that you served copies of these notices, Exhibit D-4, on these four persons whose names I have mentioned in the last question? A. These that you ask that I had admitted just now, that I had served them? I did not serve these four. These that I have read over I served every one of them.

Q. How many of these men whose names you have given did you personally present with a copy of this notice, Exhibit D-4? A. I did not make a memorandum of them all, whether I gave it to them personally, but before I gave it I made sure that the one I gave it to promised to give it to the head of the house, and if they had not given that answer I would have gone back to the house and served it that night, because I was told it was very important.

Mr. Foulds: I move to strike out the answer upon the ground that it is not responsive.

Q. Can you tell to which of the persons you gave copies of this notice, Exhibit D-4? A. Do you mean personally?

Q. Yes?

Mr. Dalrymple: I think the question has been answered by the statement that he served it either personally or by leaving it at the usual place of abode.

A. I came by Vander Hey and I handed it to him, and Krotje, I gave it to him personally, and Groenhof, I gave it to him personally, and Nuis also, and Ten Hoeve and Van Beveren. I gave it to de Jonge's little girl, and I told her to bring it to her father, who

was in the house at the time. I gave it to Oosterhout himself. I gave it to Atsma personally. I gave it to Mrs. Kuiper, and she promised to give it to her husband. I gave one to Mrs. Bongma, and I went next door to Thomas and found him not home; his wife was in bed, and he was working, and I put it under the door, and I went back next door to Mrs. Bongma and asked her if she would kindly let Mrs. Thomas know about it in the morning, and she promised me she would.

Q. Then, the way you served the notice on Jacob Thomas was by putting it under his door? A. Yes, sir.

Q. And yet, on February 14th, 1912, in this affidavit which I show you, you swore that you served a copy on him personally? A. I would take one hundred thousand affidavits on that, to the highest courts in the United States, that such a thing was not there before I swore to that. When his name was in it was written by Lawyer Condit.

Q. And when you swore to that affidavit on February 14th, 1912, that you served this notice personally on Mr. de Jonge, the fact was that you had left it with his little girl, is it? A. Yes.

Q. How do you explain your having sworn in this affidavit that the service was made on him personally? A. Personally I left it at his house. I personally went to his house.

Q. Then, your affidavit on February 14th, 1912, was false, was it not? A. I don't know.

Q. Was it true, or was it false, when you said that you served it on this man personally? A. I personally went to his house and gave it to his little girl, and she promised me she would bring it right to her father.

Q. Will you answer yes or no whether the statement that you served this notice on Mr. de Jonge

personally, is true or false? A. I can only give you the same answer.

Q. When you said that you served a copy of this notice to de Jonge personally, was that statement true or false? A. Same answer. I cannot answer it any other way.

Q. Was it false? A. You do not think I would swear falsely, do you?

Q. Yes; apparently you did? A. I don't think so.

Q. Did not you swear there falsely? A. I do not see it that way.

Q. Just examine this affidavit and state whether that is false?

Mr. Dalrymple: That is only a copy, and it is a copy that was obtained from me, and it may not be a true copy of what is on record in the Court of Chancery.

Q. Is it also false when you state in this affidavit on February 14th, 1912, that you served William Kuiper by delivering the notice to him personally? A. I answered that question a few moments ago by telling you that I gave it to his wife with the understanding that she would give it to him.

Q. You did not deliver it to him personally? A. I gave it to his Mrs.

Q. Did you serve a copy on him personally? A. The man was working.

Q. Will you answer the question, yes or no? A. I only say that I asked his Mrs. to give it to him.

Q. You did not give it to him? A. Of course—

Q. (Interrupting.) What I want to know is whether you delivered a copy of the notice to him personally and also delivered a copy of it to his wife, or whether the statement that you delivered a copy to him personally is false? A. Personally through his wife.

Q. You did not deliver a copy to him? Will you say whether you did or did not deliver a copy to Mr. Kuiper? A. I think I answered that. I said that Mrs. Kuiper came to the door and I gave it to her.

Q. In addition to that did you give a copy to him? A. Personally, himself, no. Is that what you mean?

Q. That is what I mean. A. No, sir.

Q. The same thing is true with reference to Lieuwe Bongama, is it? A. Yes.

Q. You did not give a copy to him personally? A. No, sir.

Q. At what hour of the day did you serve these notices?

The Witness: Is that necessary for me to answer, Mr. Dalrymple?

Mr. Dalrymple: Yes.

A. As near as I can remember, about a quarter to six to seven o'clock.

Q. In the evening? A. A quarter to six in the evening I went to the biggest part of them, and Mr. Thomas and Mr. Bongma were served about nine o'clock or half past eight.

Q. You delivered copies to their wives? A. One of them, and the other was under the door.

Q. What time did you put this notice under the door of Mr. Thomas? A. I think it was the time that I have just stated.

Q. After eight o'clock? A. I said half past eight.

Mr. Foulds: I would like to have this affidavit marked for identification.

Affidavit is marked R-11 for identification.

By Mr. Dalrymple:

Q. You are one of the original endorsers of the notice, are you not? A. Yes, sir.

Q. Johannes Hoedema—did you serve him personally or by leaving it at his house? A. I left it with his wife.

Q. What time of the day? A. As near as I can remember about a quarter of six.

Q. Hendrick Vander Groef,—did you serve him personally or by leaving it at his house? A. Personally, about five minutes later.

Q. Peter Vander Hey, Jr.,—did you serve him personally or by leaving it at his house? A. At his house.

Q. What time was that? A. It may be three minutes after Vander Groef.

Q. And Berrend Krotje,—how did you serve him? A. Personally, myself.

Q. Lambert Spaanstra—how did you serve him? A. With his Mrs.

Q. At what place? A. At his house.

Q. What time? A. Maybe a minute or so after Krotje.

Q. And Johannes Groenhof—how did you serve him? A. Personally, himself.

Q. What was the time that you served him? A. About the same time or a couple of minutes later.

Q. Gezenis Nuis—how did you serve him? A. I don't know whether I gave it to him or to his wife, but it was served on him home—either one of the two.

Q. At about what time? A. There was about two minutes between them all.

Q. Maarten Van Beveren—how did you serve him? A. He was sitting at the supper table, and I came in, but whether I gave it to him or to one of his sons, I don't remember, but he had hold of it before I went out anyway.

Q. Hendrik Van Reken—how did you serve him? A. He was at the supper table.

Q. Did you serve him personally? A. When I got there he told me he had one.

Q. You had a conversation with him? A. Oh, yes; he told me himself.

Q. William Atsma—how did you serve him? A. Himself personally.

Q. Peter F. de Jonge—how did you serve him? A. With his little girl.

Q. At his house? A. At his house.

Q. What time was that? A. It would be about a quarter after six o'clock.

Q. Jacob Thomas—how did you serve him? A. I left it under the door of his house and went next door to Mrs. Bongma and asked her to tell Mrs. Thomas.

Q. And Lieuwe Gangma—how did you serve him? A. By his Mrs.

Q. At his house? A. Yes.

Q. Leffert Oesterhout—how was he served? A. I left it at his house with either him or his wife; I don't remember.

Q. And William Kuiper? A. With his Mrs.

Q. Were you present when Kuiper signed the original notice for the call of the meeting? A. No, sir; I was the first one to have it.

Q. Cornelius Van Handel—how was he served? A. With his Mrs. at his house.

Q. Do you know what time that was? A. Right after de Jonge, about a quarter after six, or six o'clock.

Q. Cornelius F. R. Clever—how was he served? A. Himself, personally.

Q. And Jacobus Ten Hoeve—how was he served? A. Himself.

Defendants' Witnesses, Bergsma, Direct, Cross—Vander Horn, Direct

CHRISTOPHEL BERGSMA, sworn as a witness on the part of the defendants, testifies as follows:

Direct-examination by Mr. Dalrymple:

Q. I have a copy of a notice marked Exhibit D-4. Have you ever served a copy of that notice on any of the members of the North Side Christian Reformed Church? A. Yes; on Sjoerd Hannema.

Q. How did you serve it? A. Personally.

Q. You know him? A. He is my brother-in-law.

CROSS-EXAMINATION by Mr. Foulds:

Q. At what hour did you serve it? A. Ten minutes after six o'clock.

Q. In the evening? A. Ten minutes after six o'clock in the evening of the eighth of January.

HENRY VANDER HORN, sworn as a witness on the part of the defendant, testifies as follows:

Direct-examination by Mr. Dalrymple:

Q. I show you a copy of a notice marked Exhibit D-4. Did you ever serve that notice on any members of the North Side Christian Reformed Church? A. Yes.

Q. On whom? A. Matthys Klapmuts.

Q. Personally? A. With his Mrs.

Q. At his house? A. Yes, sir.

Q. Do you know where he lives? A. Yes.

Q. What time did you leave it there? A. About eight o'clock.

Q. On Monday evening? A. Yes, sir.

CROSS-EXAMINATION by Mr. Foulds:

Q. Did you make this affidavit here, which I show you, bearing date February 14th, 1912, saying that you had served this notice on Matthys Klapmuts by delivering a copy of the same to him personally? A. Well, I handed it to his Mrs. and she was in the kitchen and she walked right over and handed it to him.

Q. The statement that you gave it to him personally ally was false? A. I saw him have it personally.

Q. You did not deliver it to him personally; is that true? A. Is not that answer good enough at that? I saw him have it personally. His wife took it and walked right to him and gave it to him.

Q. The statement that you gave it to him personally, is not true? A. I think that answer ought to be satisfactory; it is as good as I could answer it.

Q. The fact is that you did not serve a copy of this notice marked Exhibit D-4 on Matthys Klapmuts personally? A. The best answer I can give I have just given; I have given it before.

Q. That you did not give it to him personally? A. I have given my answer to that.

Q. You did swear on February 14th, 1912, that you gave a copy to him personally? A. Yes, sir.

LOUIS HIEMSTRA, sworn as a witness on the part of the defendants, testifies as follows:

Direct-examination by Mr. Dalrymple:

Q. I hand you a copy of a notice marked Exhibit D-4. Do you know what that notice is? A. Yes, sir.

Q. Did you ever serve it on any of the members of the North Side Christian Reformed Church? A. Yes.

Q. On whom? A. John Schilstra.

Q. Did you serve it on him personally? A. No, sir; on his servant.

Q. At his house? A. Yes, sir.

Q. Who was the next one? A. Hendrik Van Zoest.

Q. Did you serve that personally? A. No, sir.

Q. How did you serve that? A. I gave it to his wife.

Q. At his residence? A. Yes, sir.

Q. At what time? A. At ten minutes to six, I guess.

Q. What time did you serve it on Schilstra? A. About five minutes to six.

Q. Who is the next? A. Klaas De Vries.

Q. How was that served? A. I served him personally.

Q. Who was the next? A. Dehman Zoeteman.

Q. How was that served? A. I gave it to his wife and he happened to come home and he took it.

Q. That is, the husband took it? A. Yes.

Q. You say you delivered it to him? A. Yes.

Q. You saw him read it? A. Yes.

Q. And the next one? A. Leonardus Wynbeek.

Q. How was that served? A. I gave it to his wife. His wife came to the door and I saw her give it to him.

Q. At his house? A. Yes.

Q. What time? A. Between half and quarter to six o'clock.

Q. You know where this man resides? A. Yes.

Q. You are sure you served him personally or left it at their homes, of the men who you have mentioned? A. Yes.

Defendants' Witness, Louis Hiemstra, Cross

CROSS-EXAMINATION by Mr. Foulds:

Q. How old are you? A. Twenty.

Q. Did you swear on February 14th, 1912, that you were of full age? A. I don't remember.

Q. If you did swear on February 14th, 1912, that you were of full age, that was not true? A. I am only twenty years old now; I guess I was not twenty-one years old then.

Q. Did you swear that you served notice marked Exhibit D-4 by delivering a copy to Mr. Schilstra personally? A. No, sir; I delivered it to his wife.

Q. Did you swear on that date that you gave a copy of this notice to Mr. Wynbeek personally? A. I don't remember.

Q. If you did swear at that time that you gave it to him personally, that statement was false? A. I gave it to his wife to give to him.

Q. You did not give it to him personally? A. No, sir; I asked her to give it to him.

Q. Did you swear on February 14th, 1912, that you gave a copy of this notice, Exhibit D-4, to Mr. Schilstra by delivering a copy of it to him, personally? A. I asked his wife to give it to him and she promised she would.

Q. You did not give a copy to Mr. Schilstra personally? A. No, but I gave it to his servant.

Q. You did not serve a copy personally on Hendrik Van Zoest? A. He was not home. I asked his wife if she would give it to him, and she said she would.

Q. If you swore on February 14th, 1912, that you served the notices personally, that is not true? A. What difference is there if I serve it to his wife and she hands it to him and he gets it?

NICHOLAS SCISCO, sworn as a witness on the part of the defendants, testifies as follows:

Direct-examination by Mr. Dalrymaple:

Q. I show you a notice marked Exhibit D-4. Did you ever see that notice before, or a copy of it? A. Yes, sir.

Q. Do you know what it is? A. Yes, sir.

Q. Did you ever serve a copy of that on any of the members of the North Side Christian Reformed Church? A. Yes, sir.

Q. On whom? A. On Cornelius Hettema and Oker DeVries.

Q. How did you serve the notice on Oker De Vries? A. On himself.

Q. Personally? A. Personally; yes.

Q. How did you serve the notice on Cornelius Hettema? A. On his wife.

Q. At his residence? A. Yes, sir.

Q. At what time? A. About half past three on Hettema and a quarter of four on De Vries.

Q. You are acquainted with De Vries? A. Yes.

Q. You are acquainted with Hettema's wife to whom you delivered the notice? A. Yes.

Q. Do you know where his place of abode is? A. Yes, sir.

CROSS-EXAMINATION by Mr. Foulds:

Q. How old are you, Mr. Scisco? A. Nineteen.

Q. Did you swear on February 14th, 1912, that you were then of full age, in this affidavit which I now show you? A. I don't remember.

Q. If you did swear at that time that you were of full age, it was false, was it? A. I don't remember.

Q. Did you swear in that you delivered a copy of this notice, marked Exhibit D-4, to Cornelius Hettema, personally? A. Yes, sir.

Q. And that statement was false, was it? A. I don't remember.

Q. You don't know whether it was false or not? A. I don't remember.

Q. Are you relation to John Zylstra-Sisco, one of the defendants here?

Mr. Dalrymple: I object to the question as being immaterial and irrelevant.

A. Yes, sir.

Q. In what way? A. He is my father.

Q. Did he induce you to sign this false affidavit to which I have called your attention, on February 24th, 1912?

Mr. Dalrymple: I object to the question as immaterial and irrelevant and not germane to the issue.

A. No, sir.

Q. Did he ask you to sign this affidavit? A. No, sir.

Q. Did he know you were going to sign this affidavit? A. No, sir.

Q. Was he present when you signed this affidavit? A. Yes, sir.

Q. Where was this affidavit sworn to? A. I don't remember.

Q. You remember that your father was present? A. Yes, sir.

Q. Do you remember where it was? A. Not exactly; no.

Q. What do you mean by "not exactly"? A. I don't remember quite where it was.

Q. Do you remember before whom you swore to it? A. No; I do not.

Q. You don't know what building it was in? A. No.

Q. Do you know whether it was in Passaic or in Paterson? A. In Passaic.

Q. Was anyone present besides your father? A. Yes.

Q. You did swear to it, didn't you? A. Yes.

Q. Who else was present? A. Brothers Bergsma and Heemstra and quite a few others.

Q. How is it that you do not remember where you were when you swore to it? A. I don't remember.

Q. Did you tell your father that this affidavit was not true before you swore to it? A. No, sir.

Q. Did he know it was not true? A. No, sir.

Q. Did he read it over before you swore to it? A. No, sir.

Q. Did your father threaten you with anything if you did not sign the affidavit? A. No, sir.

Q. What did you receive for signing the affidavit? A. Not anything.

By Mr. Dalrymple:

Q. This affidavit was signed before a Master in Chancery or Notary who presented it to you for your signature? A. Yes.

Q. Is that the way it was signed? A. Yes.

WEYBREN H. HIEMSTRA, sworn as a witness on the part of the defendants, testifies as follows:

Direct-examination by Mr. Dalrymple:

Q. I hand you this notice which has been marked Exhibit D-4; do you know what that is? A. Yes; I do.

Q. Did you ever serve a copy like that on any of the members of the North Side Church? A. Yes, sir.

Q. On whom did you serve it? A. On Mr. William S. Pontier.

Q. How did you serve it—personally or by leaving it at his house? A. Personally.

Q. You know William S. Pontier? A. Yes, very good.

Q. Who was the next one that you served? A. Nicholas Groenewegen.

Q. How did you serve Mr. Groenewegen? A. I gave it to his daughter at his residence.

Q. You know where he lives? A. Yes.

Q. Who was the next one? A. Hubrecht Prins.

Q. How did you serve it on him? A. I guess I gave it to his lady.

Q. At his residence? A. Yes.

Q. Do you know where he lives? A. Yes.

Q. Who was the next? A. Wiebe De Vries.

Q. How did you serve it on him? A. I gave it to him.

Q. Who was the next? A. John Hammersma.

Q. How did you serve it on him? A. I gave it to his lady.

Q. At his residence? A. Yes, in his house.

Q. You know it was his wife, do you? A. Yes.

Q. Who was the next? A. Nane De Vries.

Q. How did you serve him? A. I gave it to his lady.

Q. At his residence? A. Yes.

Q. Do you know his wife? A. Yes.

Q. Do you know where he lives? A. Yes.

Q. Who was the next one that you served? A. Paul Luiman.

Q. How did you serve him? A. I gave it to his lady.

Q. At his residence? A. Yes.

Q. Who was the next? A. Cent Maat.

Q. How did you serve him? A. I gave it to him personally.

Q. Who next? A. Adrian Van Dyk.

Q. How did you serve him? A. I gave it to his lady.

Q. Do you know his wife? A. Yes.

Q. Do you know where he lives? A. Yes.

Q. Who next? A. Peter Vander Hey, Sr.

Q. How did you serve him? A. I gave it to his boy.

Q. Who next? A. Sieba Roosma.

Q. How did you serveh im? A. I gave it to his lady.

Q. You know her, do you? A. Yes.

Q. You know where he lives? A. Yes; very good.

Q. Who next? A. Atte Spaanstra.

Q. How did you serve him? A. I gave it to him.

Q. Personally? A. Yes.

Q. Did you serve any others besides those you have named? A. No, sir.

Q. What time of the day was it that you served these notices? A. I think it was around six o'clock in the evening.

CROSS-EXAMINATION by Mr. Foulds:

Q. Are you sure that you gave this notice to Cent Maat personally? A. Yes, sir.

Q. Did you swear, on February 14th, 1912, that you served copies of this paper D-4, on all of these persons by delivering copies of the notice to each of them personally? A. A man or a woman—it does not make any difference. If I bring it to his lady it is just as good.

Q. The statement that you served copies of this notice on each of them personally is not true? A. I brought it to the house and gave it to the ladies.

They are just as good as the man. That was good enough.

Q. Did you swear in this affidavit that you served copies of this notice personally? A. The man or the woman was just the same.

Q. You swore to this affidavit on February 14th, 1912? A. Sure.

Mr. Foulds: I ask to have this affidavit marked for identification.

Paper is marked R-12 for identification.

Q. In reference to Peter Vander Hey, there seems to be a duplication here. Are you sure you served the old man or the boy? A. The boy. It was for the old man, but I gave it to the boy.

Q. Did you have the names of the persons for whom these notices were intended written on each notice in any way? A. I had a piece of paper in my pocket.

Q. When you arrived at the residence of Mr. Vander Hey— A. (Interrupting.) That was a little after six o'clock.

Q. When you arrived at the residence of Mr. Vander Hey did you write on the copy that you left there the name of the person for whom it was intended? A. No; I spoke to the boy. I said to him: "Give it to your father." He said, "Yes, I will give it right away, Dick." He knew me.

Q. You said "Give it to your father?" A. Yes.

Q. What hour was that? A. I think it was about half past five.

Q. Between what hours did you make this service? A. Between five and six.

Q. All of them between five and six? A. No; some of them were a little bit later, but the last was seven o'clock.

Q. On January 8th? A. Monday night.

WILLIAM GRUNSTRA, sworn as a witness on the part of the defendants, testifies as follows:

Direct-examination by Mr. Dalrymple:

Q. I hand you a notice which has been marked Exhibit D-4 in this case. Did you serve copies of this notice on any of the members of the North Side Christian Reformed Church? A. Yes, sir.

Q. On whom did you serve your copies of this notice? A. On Nicholas Hornstra.

Q. How did you serve that copy? A. I served it personally.

Q. Who was the next? A. Johannes Zoeteman.

Q. How did you serve that notice? A. On his wife.

A. At his residence? A. Yes.

Q. Do you know his wife? A. I do.

Q. Who was the next? A. Cornelius Verway.

Q. How was that notice served? A. On his wife.

A. At his residence? A. Yes.

Q. Are you acquainted with his wife? A. I am.

Q. Who is the next? A. Jacob Brouwer.

Q. How did you serve him with the notice? A. On his wife.

Q. At his house? A. Yes.

Q. Do you know his wife? A. Yes.

Q. The next? A. Hubertus Schoonhagen.

Q. How did you serve him? A. Personally.

Q. Did you serve a notice on Wybren Terpstra? A. Yes.

Q. How did you serve that notice? A. On his wife.

Q. At his residence? A. Yes.

Q. You know his wife, do you? A. Yes.

Q. Jacob De Leeuew—did you serve him with a copy of that notice? A. Yes; on his wife.

Q. At their residence? A. Yes.

Q. John Klapmuts—did you serve him with a copy of the notice? A. Yes.

Q. How did you serve that notice? A. On his wife.

Q. At his residence? A. Yes.

Q. You know where he lives, do you? A. Yes.

Q. Ruink Spaanstra—did you serve him with a copy of that notice? A. Yes; on himself personally.

Q. W. Pruiksma—did you serve him with a copy of that notice, and if so how? A. Personally, on his servant.

Q. Jetze Pruiksma—did you serve him? A. Yes; his father said he would send it to him. There were three Pruiksmas there.

Q. How did you serve this notice? A. On the old man.

Q. Where? A. In the butchershop on Summer Street.

Q. Was he one of the original signers? A. Yes.

Q. Cent Maat—did you serve him with a copy of this notice? A. Yes.

Q. How did you serve that notice? A. On his wife.

Q. At his residence? A. Yes, sir.

Q. You know where he lives? A. Yes.

Q. Rein S. DeVries—how did you serve him? A. On his wife.

Q. At his residence? A. Yes.

Q. You know where he lives? A. I do.

Q. Leendert Fisher—did you serve him with a copy of this notice? A. I served him personally.

Q. Cornelius Van Vliet—did you serve him with a copy of the notice? A. Yes; I served it on his wife.

Q. At his residence? A. Yes, sir.

Q. Kryn Tamboer—did you serve him? A. I served him personally.

Q. Hendrik Hoedeman—did you serve him? A. I served his wife.

Q. Do you know where he lives? A. Yes.

Q. John A. Prins—did you serve him? A. Yes; his wife.

Q. At his residence? A. Yes.

Q. Josias Visser—did you serve him? A. His wife.

Q. At his residence? A. Yes.

Q. You know where he lives? A. Yes.

Q. William Wallenburg—did you serve him, and if so how? A. His wife.

Q. At his residence? A. Yes, sir.

Q. William Nyland—did you serve him? A. Personally on himself.

Q. Hendrik Bosloper—did you serve him? A. His wife.

Q. At his residence? A. Yes.

Q. Samuel C. Sjerp—did you serve him? A. Yes; his wife.

Q. At his residence? A. Yes.

Q. Wme Harder—did you serve him? A. His wife.

Q. At his residence? A. Yes, sir.

Q. Peter Grunstra—did you serve him? A. My wife served him.

Q. Then you did not serve him? A. No, sir.

Q. Denman Verbiert—did you serve him? A. Yes; his wife.

Q. At his residence? A. Yes, sir.

Q. Franciscus S. Snoep—did you serve him? A. I gave it to the girl.

Q. At his residence? A. Yes.

Q. How old is the girl? A. About eight or nine years.

Q. You also served Herbert Preen? A. Yes.

Q. How? A. Personally.

Q. You are familiar with the wives and the residences of those persons whom you have served in that way by leaving a copy of the notice at their residence or by giving it to their respective wives? A. Yes, sir.

Q. And you are also familiar with the person whom you have served personally? A. Yes, sir.

CROSS-EXAMINATION by Mr. Foulds:

Q. Are you personally acquainted with the wife of Gpa Harder? A. Well, yes; I seen her five or six times; I spoke to her.

Q. When was he married? A. I could not tell you that.

Q. Don't you know it to be a fact that he is not married? A. I do not know it, I am sure; I did not go to the house to see who was married and who was not married.

Q. You swear that you served a copy of this notice, Exhibit D-4, on the wife of Wyne Harder? A. Of course, I thought it was his wife, of course, I did not know it was not his wife.

Q. And the same thing is true in respect to the other people that you have mentioned? A. What do you mean?

Q. You served notices on different women supposed to be the wives of these different men? A. I don't know. When I got a notice to serve on the people I tried to give it to them directly, and if I could not I would give it to the lady in the house and would say, "Please hand this notice to him," and she said, "Yes," and that is all I have to do.

Q. When you say that you served notices on the wives you mean that you served a notice on some women that came to the door? A. Yes; as far as I know it was the wife.

Q. Did you make this affidavit which I show you dated February 14th, 1912? A. I cannot say.

Q. Do you remember making an affidavit in the case in Chancery, on or about the fourteenth day of February, 1912, in reference to the services of notices? A. Yes, sir; I do.

Q. In that affidavit you swear that you served copies on each of these persons presonally, who are very well known to deponent? A. I did not. I swore that I served on these houses where I went to and where I had any list of.

Q. If you made an affidavit of that kind that you served copies of this notice, Exhibit D-4, on each of them personally, that was not true, was it? A. I did not swear to that.

Q. Between what hours did you serve these notices? A. From four to six.

By Mr. Dalrymple:

Q. Did you see Mr. Snoep at any time after that? A. I have often.

Q. That day? A. No, I don't know.

Q. You don't know whether he received the notice or not? A. I don't know. I told the little girl: "Here is a notice of the church. Will you receive this and give it to your father." I said, "Where is he?" She said he would be soon here.

By Mr. Foulds:

Q. Do you know that that girl is over ten years old? A. I do not. I thought she was seven or eight or something like that.

Defendants' Witness, John M. Ward, Direct, Cross

JOHN M. WARD, sworn as a witness on the part of the defendants, testifies as follows:

Direct-examination by Mr. Dalrymple:

Q. I hand you this notice marked Exhibit D-4. Do you know what that notice is? A. Yes, sir.

Q. Did you sign that notice? A. Yes.

Q. Did you serve a copy of that notice on any members of the North Side Church? A. Yes.

Q. On whom? A. On John Top.

Q. How did you serve it? A. By giving it to Mrs. Top.

Q. And leaving it at her residence? A. Yes, sir.

CROSS-EXAMINATION by Mr. Foulds:

Q. Did you make an affidavit in the case pending the Court of Chancery on or about February 14th, 1912? A. Yes.

Q. Did you swear in that affidavit that you served that notice on John Top, who was well known to you, by delivering a copy to him personally? A. Yes.

Q. Was that affidavit false? A. No, sir.

Q. Did you deliver it to him personally? A. Yes.

Q. Did you also deliver a copy to his wife? A. I served this copy on his wife. That is all that is required by law.

Q. When did you serve John Top personally? A. The same way.

Q. Was John Top there when you served it? A. No, sir; I told you that I served it on his wife.

Q. You made the service when he was not personally present? A. I delivered it to his wife to give to him, which she did.

Mr. Foulds: I ask to have this affidavit marked for identification.

Affidavit is marked R-13 for identification.

DIRK VANDEN HEUVEL, sworn as a witness on the part of the defendant, testifies as follows:

Direct-examination by Mr. Dalrymple:

Q. I show you this notice marked D4, do you know what that is? A. Yes; I do.

Q. Do you know what that is? A. Yes; I do.

Q. Did you ever serve a copy of that notice on any of the members of the North Side Church? A. did.

Q. Will you tell us who they were, and how you served them? A. Jacob Verhagen; I served his wife.

Q. Whereabouts? A. At his house.

Q. Next. A. Frank DeBoer. I served him by mail.

Q. How did you come to serve him by mail? A. That was the only way I could reach him.

Q. Was there any special reason why you should not serve him personally? A. I thought it did not matter much because he was under censure at the time.

Q. Who was the next? A. Class Vanden Horn; I served him personally.

Q. Next. A. Fedde DeRuiter; I served his wife.

Q. At his residence? A. At the residence of his son. His wife was there at the time—that is, his mother.

Q. Did you attend the meeting on the ninth of January? A. I did not; I sent a proxy.

Q. Who was the next one that you served? A. Class De Ruiter; I served his wife at his residence.

Q. Next? A. Peter Maat; I served his wife at his residence.

Q. Next? A. Herbert Snoep; I served his wife at his residence.

Q. Next? A. Catherinus W. Snoep; I served his wife at his residence.

Q. Next? A. Hendrik Haakmeester; I served his wife at his residence.

Q. Next? A. Claas Reinstra; I served him personally on the street.

Q. Next? A. Dirk Vanden Laan; I served his wife at his residence.

Q. Do you know the wives and residences of each of the persons whom you served in that matter? A. I do.

Q. Do you know the individuals personally that you served personally? A. Yes.

CROSS-EXAMINATION by Mr. Foulds:

Q. Do you remember making this affidavit which I show you, which appears to be sworn on the fourteenth of February, 1912? A. Yes.

Q. Is the statement contained in that affidavit that you served Fedde DeRuiter by delivering a copy of this notice to him personally, true? A. I consider it personally.

Q. Did you deliver a copy of this notice to him personally? A. By mail; that was personally.

Q. That was the only way you served him? A. That was all right.

Q. Is the statement contained in that affidavit that you served Feddo DeRuiter by delivering a copy of this notice to him personally, true? A. I served his wife.

Q. Where does Fedde DeRuiter live? A. A few doors away from his son.

Q. Where? A. On Burgess Place.

Q. Do you know the number? A. I cannot exactly recollect; no.

Q. The copy that you left for him was not left at his residence? A. No; it was left, the two copies were left at the same residence.

Q. Was anything written on either of the notices to indicate to which it was to be given? A. Nothing whatever.

Q. You say that you sent a proxy to the meeting of January 4th? A. I did.

Q. You did not attend personally? A. No.

Q. To whom did you hand that proxy? A. I think to Mr. Bergsma, one of the Deacons.

Q. Do you know how many members sent proxies? A. I could not tell.

Q. How do you know that De Boer was under censure at that time? A. Why, I was told that.

Q. When were you told that? A. I don't know when.

Q. Can you tell approximately when? A. Why, it was a matter understood by every member; it was generally understood in the church.

Q. Who told you? A. It was announced in the church.

Q. It was announced in the church? A. Sure.

Q. When? A. I could not recollect when; it was made public.

Q. When censure is made public, is the name announced? A. No.

Q. Then, when it was announced that some one was under censure, the name was not given? A. No.

Q. How did you know that De Boer was meant? A. I could surmise it.

Q. Do you know who told you? A. I said it was announced.

Q. Do you know who told you that he was meant? A. No; I don't know.

Mr. Foulds: I would like to have this affidavit marked for identification.

Affidavit is marked R-14 for identification.

Defendants' Witness, Martinus J. Bast, Direct, Cross

MARTINUS J. BAST, sworn as a witness on the part of the defendants, testifies as follows:

Direct-examination by Mr. Dalrymple:

Q. I show you a notice marked Exhibit D-4. Did you ever serve that notice on anyone? A. Yes; I served the notice of the proposed meeting on Hendrik DeLeeuw and told him personally of the meeting.

Q. You did not serve him with a copy of that notice before? A. No.

Q. Were you at the meeting of January 9th? A. Yes.

Q. Was Hendrik De Leeuw present? A. Yes.

CROSS-EXAMINATION by Mr. Foulds:

Q. Then, you did not deliver a copy of this notice Exhibit D-4, to Hendrik De Leeuw? A. I told him personally of the purpose of the meeting.

Q. You did not give him a copy of this notice, Exhibit D-4? A. Not a copy.

Q. (Showing witness.) Do you remember making an affidavit in the form which I now show you on February 24th, 1912, stating that you did deliver a copy of this notice to him personally? A. I personally took care of it.

Q. Did you make this affidavit? A. Yes.

Q. Is the statement in that affidavit that you served a copy of the annexed notice which is marked Exhibit D-4, on Hendrik De Leeuw, by delivering a copy to him personally, true or untrue? A. I did not give him that copy, but I told him the contents of that paper. I gave him personal notice of the meeting.

Q. Is it true or untrue—the statement in that affidavit? A. I signed that affidavit because I understood that I gave him personal notice of that meeting.

Q. And the statement that you delivered a copy to him is untrue, is it? A. Not for me.

Q. What do you mean by "not for me"? A. It is for me the same if I told him the purpose of that meeting, the contents of that paper

Q. All you did was to tell him the purpose of the meeting? A. Yes.

Q. And the contents of that paper—did you have that paper with you? A. Yes; I had a copy of it.

Q. Did you show it to him? A. No.

Q. Did you serve anyone besides DeLeeuw? A. No.

Q. In your affidavit on February 24th, 1912, which I show you, you swear that you served a copy on Garret Veenstra; is that true? A. I personally took care of that. I got his name on the paper, on that same paper.

Q. Did you serve a copy of this notice on Garret Veenstra? A. I personally took care of it.

Q. Will you answer my question—yes or no? A. I had a paper, but I did not know where he lived at that time. Then I asked Dominie Vanden Heuvel to bring that copy to Mr. Veenstra and ask him to have him put his name on that paper.

Q. But you swore at this date, February 24th, 1912, that you had delivered a copy to Garret Veenstra personally. A. Yes; I personally took care that he got that paper.

Q. The statement that you delivered a copy of the paper to Garret Veenstra personally is not true, is it not? A. No; I took that paper; I personally took care that he got that paper.

Q. The fact is that you did not give a copy of that paper to him personally? A. I did not give it to him himself, so I asked Dominie Vanden Heuvel if he would deliver it to him, and in that way I personally took care of it.

Q. That statement in that affidavit is untrue? A. Not for me.

Q. What do you mean by "not for me"? A. I personally took care of that.

Q. You did not personally serve it? A. Not personally.

Mr. Foulds: I ask to have this affidavit marked for identification.

Affidavit is marked R-15 for identification.

ARIE J. VANDEN HEUVEL, a witness already sworn on the part of the defendants, recalled and testifies as follows:

Direct-examination by Mr. Dalrymple:

Q. I hand you a copy of the notice marked Exhibit D-4. Did you serve a copy of that notice on anyone? A. I served this notice.

Q. On whom? A. On Mr. Veenstra.

Q. How? A. Mr. Bast did not know where he lived, and he asked me if I would take it up there, and so I did, and I saw him write his name on it, and he gave it back to me, and I gave it to Mr. Bast.

Q. You saw him sign that paper? A. Yes; he wrote it himself.

Mr. Darlymple: I offer this paper in evidence.

Paper is marked D-5.

CROSS-EXAMINATION by Mr. Foulds:

Q. Where did Veenstra sign his name to this paper, Exhibit D-5? A. At his house.

Q. Where is that? A. Number 1093 East 24th Street, Paterson, N. J.

Q. Did you go up to East 24th Street, in Paterson with that paper? A. Yes, sir; I went up to his house.

Q. On what day? A. As well as I can tell you from memory it was the day before that meeting of the ninth; it must have been on the eighth because we had only one day between.

Q. Will you look at that statement signed by Mr. Veenstra at the foot of the paper Exhibit D-5 and see whether that does not refer to the "meeting of this evening"? A. Yes; that is right; it must have been on Tuesday, the same date that we had the meeting. Tuesday night we had the meeting.

Q. Then, you think it was served on him on Tuesday? A. Yes; it must have been.

Q. At about what hour of the day? A. It must have been in the morning because he is a baker and he generally goes out early in the afternoon. Yes; it must have been early in the morning but I cannot recollect very clearly. Yes; it must have been early in the morning because I took a little lunch there; it comes to my mind now.

By Mr. Dalrymple:

Q. Was he present at the meeting that evening? A. No; he was by that proxy. That was his vote because he could not come, because he is a baker.

By Mr. Foulds:

Q. And on the strength of this paper, Exhibit D-5, did you count him as present at that meeting of January 9th and record his vote? A. We recorded his vote on that proxy in favor of the action.

Q. The only proxy he gave was this paper, Exhibit D-5? A. As well as I know, I think that was all.

Q. How many proxies were presented at that meeting? A. I do not recollect that now.

Q. Were there several proxies? A. There was a few—not many.

Q. And in the statement of the number present and voting at that meeting on January 9th there were included those who had sent proxies similar to those five? A. They were included in the count in favor, yes, as on January 7th, the decision was to wait for votes in favor of or against.

Q. Is it the practice of the Christian Reformed Churches to permit members to vote at Congregational meeting although they are not personally present? A. It is.

Q. Do you know of that being the general practice? A. Certainly. I think you will find in the last votes of the Consistory even.

Q. Has that been on votes other than for officers? A. Yes; they have a right to do it.

Q. Did you ever hear of it except on voting for officers? A. Yes.

Q. When? A. I cannot recollect dates, but I know that every member of the church, when he cannot be present, has a right to send in his vote.

Q. Is there any written rule providing for that? A. I don't know of any, but that is the custom—if a person cannot be present at a meeting, he is at liberty to send in his vote on any matter.

Q. You mean that is the custom now in your church? A. It is the custom in every church wherever I was.

Q. You don't know of the practice in other churches than those in which you were a minister? A. Yes; I belonged to other churches before I was a minister.

Q. There is no written authority for it? A. I don't think there is; I don't recall any.

By Mr. Dalrymple:

Q. Veenstra afterwards signed the petition to Classis Paramus?

Mr. Foulds: I object to the question as calling for the contents of a paper not in evidence.

A. Yes.

NICHOLAS REINSTRA, sworn as a witness on the part of the defendant, testifies as follows:

Direct-examination by Mr. Dalrymple:

Q. I show you a notice marked Exhibit D-4. Did you ever serve a copy of that notice on any member of the North Side Church? A. Yes.

Q. On whom? A. Mr. John Regnery.

Q. How did you serve it? A. Personally by bringing it to his house and handing it to him.

No cross-examination.

BERT REINSTRA, sworn as a witness on the part of the defendant testifies as follows:

Direct-examination by Mr. Dalrymple:

Q. I hand you a notice which is marked Exhibit D-4. Did you ever see that notice before? A. Yes.

Q. Did you ever serve a copy of that notice on anyone in the North Side Church? A. Yes.

Q. On whom? A. Mrs. Lazareis.

Q. Who is Mrs. Lazareis? A. She is the wife of Mr. Edd Lazareis.

Q. Did you serve it at their home? A. Yes.

Q. Do you know where they live? A. Yes.

Q. Do you know Mrs. Lazareis personally? A. Yes.

Q. Where is their home? A. I think it is No. 247 Burgess Place.

CROSS-EXAMINATION by Mr. Foulds:

Q. How old are you? A. Fifteen.

Mr. Dalrymple: Counsel for the defendants says that the reason for notices not being served upon Martinus J. Bast, Martinus Haakmeester, Gerolf DeRoos, Peter Vander Plaat, and John Zylstra-Sisco, is that they were members of the Consistory of the North Side Church, and were present at the meeting of January 9th, 1912.

Counsel further says that the reason for not serving notices on Christopher Bergsma, William H. Grunstra, Weybern H. Hiemstra, Theodore Bergman, Dirk Vanden Heuvel and John M. Ward was that they had personal notice of the meeting through serving notices upon other members of the congregation.

Mr. Foulds: Counsel for the Relators objects to the statement that Messrs. Bast and others were members of the Consistory, upon the ground that that question is in dispute.

ARIE J. VAN DEN HEUVEL, a witness already sworn on the part of the defendants, recalled and further testifies as follows:

Direct-examination by Mr. Dalrymple:

Q. (Showing witness.) I hand you a book, Mr. Van Heuvel. What is that book? A. That is a record of the members of the North Side Church.

Q. Does that show the membership up to January 7th, 1912? A. Yes.

Q. The male members? A. The male members, the female members, the children, too.

By Mr. Foulds:

Q. Does this book show any entries of members after January 7th? A. I should think so, because we have kept up the book until a certain time, until the books were ordered out of our hands.

Mr. Dalrymple: I offer the books in evidence to show the membership up to January 7th.

Mr. Foulds: Counsel for the relators object upon the ground that it appears the book shows numerous entries made after January 7th 1912, and it does not appear in what manner the book has been kept.

By Mr. Dalrymple:

Q. Whose duty is it to keep that book? A. I did keep it; I do not know whether it is my duty exactly to keep it, but I did.

Q. How long did you keep it? A. I think I kept it from the beginning; it must have been over four years—probably over four years.

Mr. Dalrymple: In answer to relators objection, I will state that counsel for the de-

fendant desires only to show the membership in the North Side Christian Reformed Church to January 7th, and do not desire to show membership after that date.

Book is marked Exhibit D-6.

Q. Are you familiar with the membership of the male members of the North Side Church up to January 7th? A. Yes, sir.

Q. Have you made a list of those members? A. Yes.

Q. (Showing witness.) Is that the list made? A. Yes.

Mr. Dalrymple: I offer this list of male members in evidence.

This paper is marked Exhibit D-7.

Q. How many members were there in the North Side Church at the time of January 7th? A. There were ninety-eight male members.

Q. Were all of those male members of that church in good standing at that time? A. No; they were not.

Q. How many were not? A. Thirteen.

Q. Will you state who they are and what their disabilities were? A. Jacob Brauer called for papers on October 23rd, 1911, and gave up pews and went to another church. Rein S. De Vries called for papers October 30th, 1911, and also on November 6th, 1911, and went to another church; Frank De Boer, was censured. Johannes Haieman has not attended church for two years, and was hardly attending any church. Whatever he did he did somewheres else. Cornelius Maat called for papers on October 9th and October 23rd, 1911, and gave up pews, and went to another church. Reink Spaanstra called for papers October 9th and October 23rd, 1911, and went to another

church. John Topp was censured for more than two years, and went to another church.

Q. Has that censure been raised? A. No, sir.

Q. How do you know that it has not been raised? A. Since I have been in the Consistory the censure had not been raised.

Q. Who is the next one? A. D. Van de Laau called for papers November 20th, 1911, and went to another church.

Q. Next? A. P. Van der Hey, Jr., called for papers October 30th, and November, and went to another church.

Q. Why did he call for papers on two occasions? A. Well, there was more than one called twice because the Consistory had at first taken these matters into consideration and discussed thoroughly and did not come to a decision. Anyway they were not notified and they were still anxious to leave and consequently they called the second time and they insisted on it, and some of them came into communication with Classis. Between some of these dates you will find a Classis meeting.

Q. Next? A. V. D. Hey, Sr., called for papers on October 23rd, gave up pews, was censured and went to another church.

Q. Next? A. Cornelius Verwey called for papers October 30th and November 6th, and went to another church.

Q. Next? A. G. Nuis called for papers October 9th and went to another church.

Q. Next? A. Jacob Verkert was censured; he had not been in church for more than two years.

Q. Were you present at the meeting of the congregation held on January 9th? A. Well, yes; certainly.

Q. Do you know how many members were present at that meeting? A. Well, they were counted, and it was stated that there were fifty-five.

Q. Who counted them? A. Mr. Dalrymple.

Q. Did you see Mr. Hornstra and Mr. Prins at that meeting that night? A. I did.

Q. Was there any objection raised by either of those two gentlemen at that meeting? A. There were no objection raised. If anything, they recognized the meeting. When the standing vote was taken, the President then said to them, because they were standing, too, if they wanted to be counted also as voting in the matter, but they said not. They said they did not want to be considered voting in the meeting.

Q. Have you read the petition to the Supreme Court on the rule to show cause why information should not be filed in the nature of a Quo-Warranto? A. I did at that time.

Q. Did you notice in there that the petitioners say they were under charges on January 7th? A. Yes.

Q. Is that true? A. No. There were no charges against me.

Q. Did you ever receive a letter from anyone in reference to saying that you were suspended? A. Yes; I received a notice to that effect.

Q. Who was that from? A. The first notice I got was of a Double Consistory.

Q. What was that Double Consistory? A. That was the so-called Consistory of the faction of the North Side Church which regarded itself as the legal Consistory and the Hope Avenue Consistory. Of course, I do not know in how much they have been represented as far as Hope Avenue is concerned, because I was not at the meeting.

Q. (Showing witness.) I show you a letter received from that so-called body? A. Yes.

Q. How did that reach you? A. That was delivered to me, if I am not mistaken, by one of them, but I cannot recollect just now by whom.

Q. What date is that? A. This is dated January 10th, 1912.

Q. In what language is that letter written? A. It is written in the Holland language.

Q. Have you translated that? A. Yes.

Q. Have you got a copy of the translation? A. Yes.

Q. Will you read it? A. (Reading.) "Passaic, N. J., January 10th, 1912. Rev. Arie J. Van Heuvel, Dear Brother: This is to serve you with due notice that you are suspended from your office until the following Classis decides according to Article 79, D. K. O., in the name of the Double Consistory, Hope Avenue and North Side in session, January 8th, 1912. (Signed) G. W. Westenberg, President, W. S. Pontire, Secretary."

Q. On January 7th you were a Minister of the Gospel with full power to perform ceremony and so forth? A. I was.

Q. And under disability ecclesiastically in no way? A. No.

Mr. Dalrymple: I offer in evidence the original letter written in the Holland Language and also the translation.

Letters are marked Exhibit D-8 (a) and Exhibit D-8 (b).

CROSS-EXAMINATION by Mr. Foulds:

Q. Did those ninety-eight members, shown on Exhibit D-7, include the head of families in the Christian Reformed Church on January 7th? A. What do you mean by "heads of families"? Do you mean fathers? A. By heads of families I mean the one who acted as the head of the family, such as a widow in case her husband was dead, or another person oc-

cupying that position in the family? A. Not exactly. For instance, there were some young men entered. As soon as they had made their confession of faith they are entitled to vote, even if there was a father yet in the family.

Q. It does not, however, include any females? A. No.

Q. Does not a family in which a female occupies the position of head of the family have any vote in the church at all? A. No.

Q. Even though there is no male? A. Even though. The Christian Reformed Church follows that practice right along. Only the men vote.

Q. No notices of this meeting of January 9th were given to any women, were there? A. I do not know of any. It might have been given to the woman for the man, but not for the purpose of giving notice to the woman, for instance, if there was a widow, it was not for the purpose that she should vote.

Q. So that even though a woman occupies the position of head of the family she had no right to vote? A. No.

Q. To what church did these several men whose names you have given go after leaving the North Side Church? A. Most of them went to Hope Avenue, and some went to Mr. Ghysel's Church.

Q. Are those churches, churches of the Christian Reformed denomination? A. They are. To be clear on the matter and distinct, there were some who also went to another church which was not of that denomination.

Q. Do you know who they were? A. Well, I can name a few of them—for instance, Koopman and I understand Maat. I was told of others, but I do not recollect the names.

Q. How do you know to what church these men went? A. By reports that came to me.

Q. Merely by reports. A. Yes.

Mr. Foulds: Counsel for the relators moves to strike out the answer on the ground that the witness has no knowledge of the fact testified to, and his answer was made upon hearsay.

Q. Did you advise the Consistory of North Side to withhold the church papers in any of those cases? A. In what capacity do you mean?

Q. In any capacity? A. The Consistory meetings, do you mean?

Q. I mean in any way. A. Well, that ain't so clear to me. Any way there were different conditions. I have advised in regards, for instance, Van de Hey, to give him his papers, and the Consistory even had decided upon it, but it was protested by two of the Elders now on the other side.

Q. (Repeated.) Did you advise the Consistory of North Side to withhold the church papers in any of these cases? A. Well, that is not clear to me because there is a regular mess in all of these different conditions that came up. I know I recollect in regard to Van De Hey I did give advice as Chairman—we follow the course that the Chairman preside and the others speak on the floor, but he speaks when they call for it, and the Consistory decides upon it. As far as the Chairman is concerned, it does not amount to anything. In some cases I may have advised not to, and in other case I would advise, as I remember very distinctly the case of Van de Hey that I advised to give him the papers, because I thought it was no use to hold that man.

Q. Is it a matter resting in the discretion of the Consistory as to whether papers should be given or withheld? A. It is, and we have had Classis between that time.

Q. If one is not satisfied by the decision of the Consistory in the matter of granting or withholding church papers, he may appeal to Classis? A. Yes; I recollect when there was a great many applying for papers, and it was put up to the Classis. The minute book will show that.

Q. Has the congregation, distinct from the Consistory, any authority to grant papers? A. No; that is Consistory work.

Q. It is not within the authority of the congregation to grant these papers, even though the Consistory refuses? A. No.

Q. What authority, then, has the congregation and the Consistory with reference to matter of church government? A. Well, the Consistory of course, represents the congregation, and that is the principal thing. Like the Lord said: "If they do not hear you, then go and tell the congregation," which means the congregation as represented in the Consistory. That it also outlined in the church government. The consistory by the congregation as represented, come together, and they do the work of the congregation, and, of course the Consistory has to go strictly according to the rules laid down by the word of God, is understood and outlined by the church regulations and church doctrine.

Q. If a member feels that the Consistory is not acting within the church rules, has he a right to go to the congregation and have the church Consistory overruled? A. Not the congregation.

Q. It is right to appeal to Classis? A. Yes.

Q. And the congregation itself has no power in church government at all? A. No power in church government—that is, let me make that clear—when it comes to matters of this kind, questions of membership and standing of members and so on.

Q. Are there any matters of church management in which the congregation has power superior to the Consistory? A. In financial matters, for instance, and matters of secession, and such matters, then it is up to the congregation what they want.

Q. Where do you find authority for that? A. The authority for that is that the congregation be the body, it is up to them how they should act—I have to go back—in the case of secession, for instance, a Consistory would take a stand as a Consistory right against the wishes of the congregation; they bring themselves in a very great predicament because when it comes to a matter of principle or of religion, the Consistory is, in regard to connection with the congregation, practically their agent; they represent the congregation. Representing the congregation, they, of course, must represent the congregation so that the principal points of belief are not out, because they tie themselves down by installation to serve this congregation according to the word of God so that if a consistory would make any decisions against the wishes of the congregation, then, the congregation, of course, would have a perfect right to object to their regulations. For instance, in a case of this kind as it was here with the installation even, it is up to the congregation, because the congregation was the first acting power to get the machinery working, you might say, for the men that are going to serve them. Consequently, the Consistory has to figure with the congregation, as much as they have to figure with the rules and regulations laid down ruling the congregation.

Q. If the congregation is dissatisfied with an act of the Consistory in this respect, they can overrule the Consistory, can they, without going to Classis? A. Well, of course, the Classis being the broader court in the church government laid down for the congrega-

tion, according to the stipulation they have as churches among each other, the proper way would be for the congregation to go to the Classis to have the Classis bring the Consistory back.

Q. That is the legal way, in all cases, is it not? A. That is the legal way. I do not know *in abstracto* in the point that you raise if that could be done to reform doctrines. It is our principle that the consistory has to serve the congregation when it comes to principles of the congregation.

Q. If the consistory acts in a manner which the congregation thinks to be improper, can the congregation, independent of the consistory call a meeting of the congregation to overrule the congregation? A. Independent of the consistory? Well as they have been in our case, yes, they could. Circumstances might cause that to be.

Q. Then, you think that a meeting of the congregation can be called by members of the congregation, do you? A. There is no rule on that in the Christian Reformed Church. The custom is that the consistory calls the congregation together. That is the custom.

Q. Is it not the established law that the meetings of the congregation must be called by the consistory? A. That is the custom.

Q. Is it within the power of the consistory to delay the installation of newly elected deacons and elders even though the congregation are not satisfied? A. Well, the question reaches the point at issue, and then my answer has to be kind of broad. The conditions were that in the first place the congregation has been in their protest in regard to the question of classis. They did go the legal way. Classis not listening overruled the appeals, not granting the request of the members of the congregation, and they felt that in their rights, of course, they were harmed, and consequently when the time of the installation which was

the second question to come in issue, that on December 19th, if I recollect well, it was decided by the consistory that the installation should take place on January 7th. That announcement to the congregation made it practically the property of the congregation. The congregation now have a say. It was announced to them. Consequently on January 4th, when consistory, without revision of the matter, without consulting the congregation, they were wrong when they decided to postpone the installation, because if they did that, their action was illegal as far as the action of December 19th. On the other hand, they ignored the congregation to whom it was announced that the installation should take place. That could never be prevented by an illegal act of the consistory.

Q. Then, is it your opinion that when the consistory had fixed the date for the installation, they had no power to delay it? A. They should not delay it.

Q. But they have power to delay it, have they not? A. In this way, this was an illegal way.

Q. Have they the power to delay an installation in some way? A. In some way if it is under the order of the congregation.

Q. What was the legal way to delay the installation? A. The legal way, should, in the first place, if there was not an announcement made to the congregation. In the second place, when their decision had been taken by the consistory, so that the road was clear, as you might say, if that question was to be solved, and then if there were any matters that the prosperity of the congregation would be at stake, if then they should go ahead and install, certainly in that case they would have a right to postpone.

Q. If the consistory in its judgment thought that the welfare of the congregation was at state, they would have the power to delay installation then, even

though they had announced the date? A. No; not in that way. They have to call the congregation together.

Q. What do they have to do when the congregation is called together? A. For a meeting of the congregation to talk the matters over so that no discrimination is caused by doing so, and it makes the congregation understand which is which.

Q. You say that the date of the installation is published from the pulpit after the election? A. Yes.

Q. What is the purpose of that? A. The publication of the candidates is that if there is any objection against him serving, the parties attend at the following consistory, as it is stated in the printed manual they shall make known what objections they may have.

Q. If objections are brought in after the names are published and the date announced, and the consistory feels that the welfare of the church demands it, has the consistory power to delay the installation? A. This is not a question of installation; this is a question of taking their names from the list of candidates.

Q. I am speaking of the delay in the installation in order to investigate objections. Have the consistory power to delay the installation for the purpose of investigating objections which are presented after the date has been fixed for the installation and notice given to the congregation? A. No power to delay then because the church rule says specifically that the announcement or publication of the names will be of the candidates, and they are put up twice. First after being put up by the consistory as candidates, they are announced twice to the congregation as candidates, and then after that publication of the candidates the rule is that if any objections are raised, that at the following consistory it shall be brought up. After the election the announcement is not for calling for ob-

jections anymore, because with ministers when they are elected as ministers, they are also announced, and there is no one familiar with the Christian Reformed Church who would think after that announcement would be made that objections can be brought against the minister chosen and duly called.

Q. In your church has it been your experience after the election of elders and deacons and the publication of their names, that they are still open to objection and that the installation may be delayed? A. No.

Q. That has never been done? A. I do not recall any incident of that kind.

Q. You do recall an incident when the installation of an elder or deacon was delayed after the election? A. No.

Q. Do you remember the election of certain elders and deacons in 1910? A. The minutes will show that.

Q. Have members of the Christian Reformed Church who are under censure any right to vote? A. No, sir.

Q. Have deacons and elders who are under censure any power to exercise the duties of their office? A. If they are under censure they have not.

Q. Do you remember after the congregation meeting on November 15th, 1911, that Herbert Snoep was elected as an elder and W. S. De Vries as a deacon? A. Yes, sir.

Q. That election was by the congregation, was it not? A. Well, of course; all elections are by the congregation.

Q. Then, do you remember that at the meeting of the consistory of the North Side Church held on November 20, these two men appeared and said that they declined to serve? A. Yes.

Q. What action did the consistory take? A. They elected new candidates.

Q. What power had the consistory to do that when the election had been made by the congregation? A. Well, the parties who had been elected declined to serve.

Q. But they did not make their resignation known to the body that had elected them? A. That notice was given.

Q. The notice was given to the consistory and not to the congregation? A. Yes; that is right; but the consistory notified the congregation of the fact.

Q. They took action in the matter, did they not? A. The consistory did?

Q. Yes. A. They called on each candidate and announced them to the congregation. They first announced to the congregation that these two had declined, and consequently they were put up and voted for.

Q. What right has the consistory to accept the resignation of elders and deacons elected by the congregation? A. That is an act by the parties themselves, when they are elected by the congregation they are not bound to serve. The responsibility is on their own shoulders.

Q. Their office is not complete and they are not in possession of their office upon their election, are they? A. As far as the majority of the church work is concerned, it is, but as far as their own conscience is concerned that is why there is also an announcement after the election if they want to consider their calling. They have to answer the question: "Do you believe that you are legally elected by this congregation and consistory, called to this office?" I have had them frankly say: "No; I do not believe that." When they say that, of course, I cannot install them.

Q. Is the installation necessary to make them elders and deacons? A. It is not essential; it is formal.

Q. Have elders a right to sit in the consistory as soon as they are elected and before they are installed? A. They have the right.

Q. Did you ever know of them doing so? A. Yes; it is often customary in some of the churches when the installation had not taken place, that on the first of January the elected men take the seats in the consistory.

Q. Even if not installed before that time? A. Yes; in some churches, as in the west, where the minister cannot get around on the day and the installation is behind, and the men are chosen as members of the consistory.

Q. Has that ever taken place in churches where you have been? A. There are churches in the west where you have to look around and wait until a minister comes, and then the men take their places.

Q. In churches with which you have been connected have the elders and deacons who have been elected exercised any official duties until after their installation? A. Yes; in some cases they did; I remember some cases.

Q. When? A. It was when I was in the west. During my seven years staying in the west I had six churches. That is about ten years ago.

Q. Is it the custom in the Christian Reformed Church for deacons and elders in office to retain their office until their successors are installed? A. That is mostly done when there is no special reason, when there is nothing extra up. I could not see why it should not be done either, because formality has always got to be taken into consideration in a church, but of course when it comes into conflict, then of course it is not of the essence of the office and it can be disregarded. Even the rules of government of the Christian Reformed Church does not speak about installation at all. If I am not mistaken, I do not think

you will find anything about installation in the church government where the office of elders and deacons is referred to.

Q. You are vitally interested in the outcome of this litigation, are you not?

Mr. Dalrymple: I object to the question as immaterial.

A. I am interested in it, but can't you find another word instead of "vitally"?

Q. You are very deeply interested in a pecuniary manner in the outcome of this litigation, are you not? A. I have been interested as a minister serving the North Side Church, and so I am deeply interested even after my sad experience that it caused the life of my wife even, so that taking everything into consideration I suffered very much for the sake of this work, which I am personally convinced I would not have any trouble in the North Side Church if I had not been a pastor and taking up the work of a pastor. I am deeply interested in the welfare of this congregation.

Q. You are the one who stirred up this whole trouble? A. I transfer that compliment. I would refer to the question which I have put up at the consistory meetings, and at the congregation meetings, and I have asked them if I have ever used them wrong or gave any bad words or had to cause them any personal grievance against them, and I charged them to bring it up and I would be perfectly willing to confess it. At one meeting it even went so far with a good many members, I went so far even that I said that even if not intending to do so, if I have ever done anything to anyone that would hurt him, I would take his hand. I offered that two or three times at one meeting. It went so far that there were thirty or forty members present that expressed them-

selves so strongly on it that they should take care against showing such animosity toward the minister; even if the minister had done wrong, these men should shake hands and forgive each other. Then there was an action taken that these men had to be told that a double consistory was called in to take care of it.

Q. On August 4th you publicly apologized to the congregation for being the cause of the trouble? A. I have been charged with an indiscreet action in regard to that matter; I have never been willing to discuss that action any more, as I took the stand when a person apologized he ought to be willing to forget these matters. These men show their willingness to forgive me. There are even these men that stand against me now, with tears in their eyes they came, like Prins, for instance, and they told me that they were perfectly in agreement with me, and they were sorry it ever went so far. There is quite a history which makes a very bad impression before a christian reputation. I am very sorry it ever went so far, not so much for the hardship as I have to stand myself, as I said before; if it could be for the good of the congregation, I would be willing to stand much more. Of course, it was very hard that I had to lose my wife on that account, as the doctor told me. If I did anything wrong I am perfectly willing at any time to stand up and apologize.

Q. Were you not, on January 7th, 1912, under order from the Classis of Hudson, to withhold from any work in the congregation of North Side? A. I was.

Q. Did not you violate that order when you installed the newly elected elders and deacons? A. No, sir; because I was not any longer in that church; I shared in with the congregation in the decision to sever the connection with Classis of Hudson, and any congregation belonging to the Seceder denomination has

a perfect right to withdraw their connection at any time when they feel it their duty to do so.

Q. At the time when you attempted to install these newly elected elders and deacons, on January 7th, 1912, were they in your opinion severed from the Christian Reformed denomination? A. They were severed. They said so themselves in their minutes which is a matter of record. They decided to sever connection from the Classis of Hudson,—first point of all.

Q. When they severed their connection with the Classis of Hudson forever, they severed their connection with the Christian Reformed denomination, too, did they not? A. Well, as such, you must distinguish between the Federal Church union, as we call it, of the churches as the oneness of the faith; for instance, we speak of the Federal union of the local churches in Classis and these Classis in the Synod are connected with each other according to the stipulation laid down for the church government; but, as far as the faith is concerned, then the oneness remains, not only in the Christian Reformed denomination, but also in the Reformed denomination, because they have both the same communion of faith, the three forms of unity.

Q. The oneness does not remain with the Christian Reformed denomination A. It does.

Q. Then, what does your severence of connection mean? A. It means that the Classis of Hudson from this time on has no more jurisdiction over us.

Q. That means that the ecclesiastical government of the church with the Christian Reformed denomination was severed? A. Yes.

Q. I understood you to say that you had been a minister of the Christian Reformed denomination up to some time later than January 7th, 1912. Do you wish to correct that? A. I have been a minister of

the Christian Reformed denomination, as I have stated but I do not recall that I said I was a minister of the Christian Reformed denomination since that time.

Q. But at the time that you attempted to install these newly elected elders and deacons on January 7th, 1912, you understood that your connection with the Christian Reformed denomination had terminated? A. From that time on; from that secession.

Q. When you installed the newly elected deacons and elders, you did not install them as a minister of the Christian Reformed denomination? A. I installed them as a minister of the Christian Reformed denomination, of North Side, not any more in connection with the Classis of Hudson, but from that time on an independent church.

Q. You did not install them as deacons and elders of a congregation of the Christian Reformed Church? A. I installed them as deacons and elders of the Christian Reformed Church, North Side, not in connection with Classis of Hudson any more. That is why I said that you must distinguish between the federation of the churches and the organic unity, between the organization itself.

Q. As you understood it at the time of the alleged installation on January 7th, 1912, there was no ecclesiastical connection between the churches and the Christian Reformed denomination? A. Yes, sir.

By Mr. Dalrymple:

Q. You speak about the Christian Reformed Church being seceders. Are they known generally as the Seceder Church? A. They have been known that way in the first years of their existence. Later they did not like that name very much, and they tried as much as they could among the people to have it called Christian Reformed. They had different names before 1823. The secession of the east, and in 1857

there was a secession of the west. I think at one time they had the name Seceder Church. Later these names were revised, and even as late as in 1896 I think it was that the Holland name was dropped, but they are generally known as Seceder, of course.

Q. In the consistory how is an action of a previous consistory revoked? A. By a two-thirds majority.

Q. Then, if the consistory of the North Side Church decide to install its consistory members on January 7th, it would take a two-thirds vote to nullify that action? A. Certainly.

By Mr. Foulds:

Q. What is the written rule with reference to the two-thirds vote? A. The written rule—it was a parliamentary rule and the parliamentary rule is followed by all gatherings of the Christian Reformed Church as much as any other. On page 142 in Point E it refers to the parlimentary rules and it says that the rules for the legislation of the Synod mention that they were taking care of all other meetings in the Christian Reformed Church. Article VI, page 143, says that under very important matters, especially those that regard the whole church, the Synod decides a two-thirds vote must be necessary. I cannot find the point that Mr. Foulds asks for. You will have to give me time to look it up.

Q. Will you give us the word in Point E on page 142, that you have translated as "parliamentary'? A. It refers to the parliamentary rules of order.

Q. Does it use the word "parlimentary"? A. It is in that nature.

Q. What do you use the word "parliamentary" for? A. Because we know what parliamentary rules of order are.

Q. What is the word used there? A. "Order."

Q. It merely says "Rules of Order"? A. It says

here that the rules of order regulate. It is the same as what we call in English "Parliamentary Rules."

Q. These rules which appear on pages 142 and 143 which you have read refer to meetings of the Synod alone? A. Not alone. I will look that up for you. You will find the point where it says that the rules are to be kept with all gatherings of the churches. It cannot be otherwise, because the Christian Reformed Church is in its system, that kind of an organization, that kind of a church, that the Synod rules; that is our history; that is where we object.

Q. Will you refer to Article VI on page 143 which you have referred to and state whether this is not a correct translation of that article: "After discussion, a motion when seconded will, by majority of vote be accepted or rejected. In important cases, especially where the entire church is involved the Synod can decide that a two-thirds vote must be had." A. That is right.

By Mr. Dalrymple:

Q. Just refer to page 40 in that book, Article VII, Section II. A. Yes; the election of elders.

Q. I have a translation of this which is as follows: "The rule is present to the last line that the consistory nominate a certain number, out of which the male members elect, by vote, at a lawful convened meeting, accordingly, after the necessary publication, as in Sections 2 and 3, subdivisions, Article IV, the publication takes place two Sabbaths in order that there be opportunity for preferring grievances against the nominees on the following meeting of the consistory" A. That is correct. That is the article that I referred to a while ago when I spoke about the candidates.

Q. In your cross-examination you spoke of having been caused by the Classis of Hudson to apologize to the North Side Church? A. Yes, sir.

Q. What was the decree or order that you were to apologize to? A. I have a copy of it. It takes too much time to translate.

Q. Did they find you guilty of the charge which was preferred against you? A. No; they did not. They charged me on swearing a false oath. They did not prove that. The consistory themselves who found it out decided I was not guilty of swearing false.

Q. Did they censure the complainants for making the complaint? A. Yes; there was quite a rumpus. The Classis did not find sufficient grounds to secure themselves with regard to swearing a false oath by the pastor, being that the plaintiffs have acted hastily.

(a) That Classis did not find sufficient grounds to secure itself as regard to swearing of a false oath by the pastor.

(b) That the plaintiffs have acted hastily to charge their pastor for swearing a false oath.

Q. I show you another note. Do you recognize that? A. Yes.

Q. Read it? A. "(a) That Classis has not found sufficient grounds to decide in regard to false witness under oath by Rev. Van den Heuvel.

"(b) That complainants therefore have acted indiscreet and careless to charge the Rev. Van den Heuvel with being guilty of false statement under oath. This decision of Classis shall be Rev. von Goor coming Sunday be announced in the forenoon if Rev. Van den Heuvel is willing to confer."

Q. What was it that you shall have apoligized for? A. I was to apologize for my actions in regard to giving Heddema an affidavit, to apologize for that, as being indiscreet.

Defendants' Witness, George H. Dalrymple, Direct, Cross

GEORGE H. DALRYMPLE, sworn as a witness on the part of the defendant, testifies as follows:

Direct-examination:

I attended the meeting of the North Side Church, held on January 9th, and counted the people present. There were fifty-five present including one man who went out before the vote was taken, whose name I did not know, and Nicholas Hornstra and Mr. H. Prins. I counted this over three different times and reported to Rev. Van den Hevuel who sat by my side. All those present voted in the affirmative by a rising vote.

CROSS-EXAMINATION by Mr. Foulds:

Q. Do you know which of the persons present were members of the North Side Church? A. I do not know anything about it. I know fifty-five were present and voted in the affirmative.

Q. Was the vote taken by a standing vote only? A. It was.

Q. The names were not called? A. They were not.

Q. Were any names taken down as far as you know? A. Not as far as I know.

Q. Did those who stood up, announce their names and announce their vote? A. They did not,—not at the meeting of January 9th.

Q. How long were Hornstra and Prins in the room? A. I should judge fifteen minutes.

Q. Do you know what they came there for? A. I saw them serve some papers.

Q. Did they take any part in the meeting? A. None whatever.

Q. They merely came in with some papers to serve? A. They stood up and I heard the presiding officer ask

them if they voted in the affirmative, and if I remember aright, they sat down.

Q. Do you know whether they were there when the vote on the question was announced? A. That I cannot say. I think they went right out.

Q. Do you know whether any negative vote was asked for? A. Yes, sir; I think it was.

Q. Do you know that it was? A. I would not swear to it positively. I remember staying there some time after Mr. Hornstra and Mr. Prins went out.

At this point an adjournment is taken to June 1st, 1912, at ten o'clock in the forenoon.

The further taking of testimony is adjourned from the first day of June, 1912, to the day of June, 1912, at ten o'clock in the forenoon.

NEW JERSEY SUPREME COURT.

THE STATE OF NEW JERSEY, *ex rel.*
NICK HORNSTRA, *et als.*,
Relators,
vs.
MARINUS J. BAST, *et al.*,
Defendants.
Quo Warranto.

Depositions on the part of the relators, in rebuttal, taken on notice, before me, Edward O'Byrne, Supreme Court Examiner, on the twenty-eighth day of September, nineteen hundred and twelve, at nine o'clock in the forenoon, at the office of Lewis A. Allen, Esq., Passaic, N. J., in the presence of Mr. Foulds, for the relators, and Mr. Dalrymple, for the defendants.

EDWARD O'BYRNE,
Supreme Court Examiner.

Mr. Foulds: Have the defendants rested?
Mr. Dalrymple: Yes; we rest.

CORNELIUS VAN GOOR, sworn as a witness on the part of the relators, in rebuttal, testifies as follows:

Direct-examination by Mr. Foulds:

Q. What is your profession? A. Minister of the Gospel.

Q. What denomination are you connected with? A. The Christian Reformed Church.

Q. How long have you been connected with that church? A. In America nineteen years.

Q. Are you familiar with the laws and rules governing that denomination? A. Oh, yes.

Q. What study have you made of those rules and laws? A. Nothing special; only general. We come in contact with them as a minister of the Gospel.

Q. Have you attended the sessions of the classis and synod? A. Oh, yes, more than once, but not this year —not in this case I mean.

Q. Have you made a study of the actions of the synods and the rules governing the church? A. Yes. In general, yes.

Q. I show you Relators' Exhibit R-3, being a book entitled, "Church Manual," and the pages 45 to 86, being the Defendants' Exhibit D-2, and I ask you whether those rules contained on pages 45 to 86 of that book govern the Christian Reformed Church? A. I don't know as to that. We don't have those rules in our church.

Q. The Christian Reformed Church does not? A. We don't have those. Those belong to the Classis of Hackensack—not to the Christian Reformed Church. So I never read those.

Q. I will repeat my question: I show you Relators' Exhibit R-3, being a book entitled "Church Manual,"

and the pages 45 to 86, being the Defendants' Exhibit D-2, and I ask you whether those rules contained on pages 45 to 86 of that book govern the Christian Reformed church? A. No; they do not.

Q. It has been testified to by the Rev. Van den Heuvel that those rules contained on pages 45 to 86 of that book do govern the Christian Reformed denomination. Is he mistaken about that? A. He is mistaken about that. It might be they are almost the same; I don't know; but as they are here they do not govern our church.

Q. Rev. Van den Heuvel testified that a committee was appointed in 1888 with reference to the union of the churches, at the synod held in Grand Rapids, June 4, 1890, and that action was taken which made those rules contained on pages 45 to 86 applicable to churches of the Christian Reformed denomination. What have you to say with reference to that A. I came to this country in 1893; so I do not know what action was taken in 1888, but I never heard of any action in regard to this book. We do not have this book in our government.

Q. Since you have been connected with the Christian Reformed Church? A. I have been connected with the ministry for twenty years in the old country.

Mr. Dalrymple: I object to the question. I think the question should be confined to what happened in 1888 or 1890.

Q. Since you have been connected with the Christian Reformed church did you ever hear of these rules contained on pages 45 to 86 of that book, being Exhibit D-2, being recognized as rules governing the churches of the Christian Reformed denomination?

Mr. Dalrymple: I object to the question as to what the witness heard.

A. Never. I understand your question is whether we ever made any reference to that book?

Q. Yes. A. It was never done, either in classis or in synod.

Q. Will you tell us whether the office of elder or the office of deacon is complete on the election or on the installation of the persons elected? A. Of course, on the installation.

Q. Has a person elected to the office of elder or deacon any power or authority by reason of that election until after his installation? A. Of course, not.

Q. Rev. Van den Heuvel has stated that the installation of elders and deacons is not necessary; that it is a mere formality. What have you to say with reference to that? A. Neither in the church or anywhere else would I say that was so. If it was done, it is a mistake.

Q. In answer to the question: "Is the installation necessary to make them elders and deacons?" Rev. Van den Heuvel answered: "It is not essential; it is formal," and further that they have a right to sit in the consistory as soon as they are elected and before they are installed. What have you to say with reference to that? A. I do not know what to say, but anyway it is an impossibility.

Q. Why? A. Because, in the first place, it stands to reason. I do not think it is done anywhere in any place; it is the installation that makes them elders and deacons, not the election.

Q. Why do you say that? A. Of course, it is only negative, and as such you cannot find anything in the rules, in the government of our church, but it is done nowhere. What would be the use of the installation if only for formality? They are never allowed to vote. It was never done in the thirty-nine years of my ministry; it could not be lawful.

Mr. Dalrymple: I object to the answer as being argumentative and not direct.

Q. Do the deacons and elders in the churches of the Christian Reformed denomination continue to hold their office until their successors are elected or until their successors are installed? A. Installed, always.

Q. Rev. Van Heuvel has stated that in the west he has known of elders and deacons taking their office as soon as they are elected. What have you to say with reference to that? A. I am very sorry to say that I cannot believe it. I do not think that Rev. Van den Heuvel could bring any proof of that. Will you please read that part where Rev. Van den Heuvel has stated that?

Q. The part of his testimony referred to is as follows: "Question: Have elders a right to sit in the consistory as soon as they are elected and before they are installed? A. They have the right. Q. Did you ever know of them doing so? A. Yes; it is often customary in some of the churches when the installation had not taken place, that on the first of January, the elected men take the seats in the consistory. Q. Even if not installed before that time? A. Yes; in some churches, as in the west, where the minister cannot get around on the day and the installation is behind, and the men are chosen as members of the consistory. Q. Has that ever taken place in churches where you have been? A. There are churches in the west where you have to look around and wait until a minister comes, and then the men take their places. Q. In churches with which you have been connected have the elders and deacons who have been elected exercised any official duties until after their installation? A. Yes; in some cases they did; I remember some cases. Q. When? A. It was when I was in the west. During my seven years staying in the west I had six churches. That is about ten years ago." Do you wish to say

anything in reference to that statement? A. Only as I have said already; it would not be lawful.

Q. After elders and deacons have been elected has the consistory any power to delay their installation? A. (No answer.)

Q. Where objections are made?

Mr. Dalrymple: I object to prompting the witness. I want it to appear that the witness is hesitating and that counsel is prompting him.

A. I ain't sure what the question was. That is what I was trying to bring to my memory.

Q. (Repeated as follows:) After elders and deacons have been elected has the consistory any power to delay their installation, where objections are made? A. Oh, yes; certainly.

Q. What is their power with reference to that? A. To wait and inquire in regard to that until it is cleared up, until they know.

Q. After elders have been elected and a date has been set for their installation, has the consistory any right to delay the installation when objections are interposed after that time? A. Certainly.

Q. For what purpose is the publication of the names of the deacons elected, after their election? A. Only for the purpose if there is any objection in the congregation to the installation of the elders or deacons.

Q. The Rev. Van den Heuvel has said that the consistory has "no power to delay then because the church rules says specifically that the announcement or publication of the names will be of the candidates, and they are put up twice. First after being put up by the consistory as candidates, they are announced twice to the congregation as candidates, and then after the publication of the candidates, the rule is that if any objections are raised, that at the following consistory it shall be brought up. After the election the announce-

ment is not for calling for objections any more, because with ministers when they are elected as ministers, they are also announced, and there is no one familiar with the Christian Reformed Church who would think after that announcement would be made that the objections can be brought against the minister chosen and duly called." What have you to say in regard to that? A. In regard to the minister, that is right; but not in regard to the elders and deacons. In regard to the elders and deacons publication is given of the names only that the congregation may know and think of it and talk of it, who they are going to choose; but after the election, then they can bring objections. It is not done after the election of the minister.

Q. If objections are brought in, what does the consistory do? A. It has to act on them.

Q. He states further that after the election and the publication of the names of elders and deacons, they are not open to objection, and the installation may not be delayed. A. I never heard of such a thing before. Every congregation knows that it is open for objections.

Q. In a case of that kind does it require a majority vote or a two-thirds vote of the consistory to delay the installation? A. Only the majority.

Mr. Dalrymple: Are you predicating that question upon the fact of a two-thirds vote being necessary to rescind a former action, or a two-thirds vote to delay? It appears in the record that a two-thirds vote is necessary to reverse a vote of a previous consistory meeting.

Mr. Foulds: Counsel for the relator objects to the printing of defendants' brief in the testimony, and asks that counsel confine himself to the testimony and to proper objection.

Relator's Witness, Cornelius Van Goor, Cross

CROSS-EXAMINATION by Mr. Dalrymple:

Q. In rescinding a vote authorizing the installation of elders and deacons would it take a majority or a two-thirds vote to rescind that action? A. I am a little at a loss to understand the meaning of "rescind."

Q. Rescind would be to reverse the action. A. Of the former consistory?

Q. Yes. A. It would take a two-thirds vote.

By Mr. Foulds:

Q. Where the consistory, as in this case, is said to have fixed January 7, 1912, for the installation of elders and deacons theretofore elected, and prior to the installation objections are interposed before the consistory, would it require a majority or a two-thirds vote to change the date of installation or delay the installation? A. Only the majority vote.

Q. That would not be considered revoking the action of the prior consistory? A. No.

Q. Why? A. If it is to revoke the decision of a former consistory, then there would be a two-thirds vote necessary; but if it has not acted before the date, then a majority vote.

Q. Then, you would not consider the action which I have just referred to as an action revoking a prior consistory? A. No.

Q. Why? A. I cannot say.

Q. Is it because they are acting upon new matter that has arisen—the objections which were interposed and which were not interposed before that time?

Mr. Dalrymple: I object to the question as leading.

A. Yes; that is right; that is right.

Q. Just give us your best explanation of that. A. I cannot give it better than you have done just now—

that new matter has come up. It is a special decision on a certain thing or case only. They set the date, and something has come up, and that is new, and as such, it is treated, and at the same time it will always be acted upon only as requiring a majority vote.

Q. In case of such a delay do the old members of the consistory continue to hold office until installation? A. Yes.

Q. Are the Christian Reformed Church and the Reformed Church of America recognized as distinct sects or denominations? A. As you call "sects" in America, yes.

By Mr. Dalrymple:

Q. You said that the installation and not the election of elders and deacons made them such? A. Yes.

Q. When the election does not have any legal effect at all? A. It makes it legal for them to be installed.

Q. Could you install without being elected? A. No. sir.

NICK HORNSTRA, one of the relators, already sworn as a witness, recalled and further examined as follows, in rebuttal:

Direct-examination by Mr. Foulds:

Q. It was testified by George H. Dalrymple that he attended the meeting of the North Side Church held on January 9th, and that you and H. Prinz were present, and that all those present voted in the affirmative on a rising vote. Is that true? A. We were not present at the meeting, but at the same time we did come to their meeting to deliver notices to some of our members at the time, but we were not present there to attend the meeting at all. Prinz and myself might have

been in the room perhaps about three or four minutes —just long enough to deliver the notices to some of the members.

Q. Were you there when the question was stated? A. I did not hear the question.

Q. Did you vote on the question? A. I did not.

Q. How long did you stay there? A. We were in the room perhaps from three to five minutes.

Q. You were not present at the meeting on January 7th, were you? A. No.

Q. Mr. Van den Heuvel testified that thirteen of the male members were under disability on January 7th, and he names them. Have you anything to say with reference to the names which he gave? A. Jacob Brauer was not under any charges at all. He had simply asked for his attest to be sent to Hope Avenue. Rein S. DeVries, the second name here, also called on the consistory to get his attest to Hope Avenue Church. Frank DeBoer, has been under censure, but I could not say whether the censure was removed on January 7th, or not. The fourth name on the list I do not know such a name in our congregation at all; I could not say anything about it.

Mr. Dalrymple: It should be John Hoedeman.

Q. Go on with the list. A. John Hoedeman was not under censure. Cornelius Matt was not under censure, but called for his attest to be sent to Hope Avenue Church of the same denomination. Reink Spaanstra was not under censure but called for his papers to be sent to Hope Avenue Church. John Topp, to my knowledge, was not under censure on the record of the church minutes. D. Van de Laau requested the consistory to have his attest sent to Hope Avenue Church of the same denomination what our church was. P. Van der Hey, Jr., called for his attest. He requested

the consistory that his attest be sent to Hope Avenue Church of the same denomination. P. Van der Hey, Sr., also requested his attest to be sent to Hope Avenue Church. Cornelius Verwey also requested the consistory to send his papers to Hope Avenue Church. G. Nuis requested the consistory to send his attest to Hope Avenue Church. Jacob Verbiert as to the censure, if he was or was not—I don't think he was; I don't think the records mention anything about censure. That is all the names here.

Q. You have spoken of these men asking for their attests. What do you mean by that? A. When a member of our church denomination—it does not make any difference where in the whole United States—if you wish to move from one place to another, you can have your attest sent from that congregation to the other congregation where you wish to be.

Q. Is it something in the nature of a letter from one congregation to the other stating that the person referred to is in good standing? A. Yes; that is all it is.

Q. After a member has asked for his attest, does he remain a member in good standing until it is granted? A. Anywhere else at all in the United States; also in Holland.

Q. Where a member asks the North Side, for instance, for his attest, does he remain a member of North Side and entitled to vote there, until the attest is granted? A. Yes; a man is a member as long as his attest is not sent away.

Q. Is he under any disability during the pending of the application for his attest? A. Nothing whatever.

Q. It has been testified that you and some of those with you created a disturbance in the North Side services on February 18. What have you to say with reference to that? A. I did not.

Q. Did you act in a proper and orderly manner at that time? A. I am convinced that I did.

Q. Did those with you? A. They did also, those that were with me.

CROSS-EXAMINATION by Mr. Dalrymple:

Q. You spoke about these members mentioned here. Were those members contributing to the church? A. Yes.

Q. How do you know? A. Because I was in the consistory, and I ought to know.

Q. Was John Topp contributing to the church support? A. Yes.

Q. Was Jacob Brauer contributing to the church support ? A. Yes.

Q. How do you know that he was contributing to the support of the church? A. He paid his pew rent, and the way that everybody contributes in our church —that is by the collections at the services and everybody puts in according to his means.

Q. Did he give up his pew in the church? A. At the time he requested his attest, of course he wouldn't have any more use for his pew after his attest was sent.

Q. Did he appear upon the books of the North Side Church as contributing to the support of the church? A. As much as everybody else.

Q. I am asking you direct. Does he appear upon the books of the North Side Church as contributing to the support of the church? A. We did not have any such a way of collecting.

Q. You do not understand the question. Does Jacob Brauer appear on the financial books of the North Side Church as contributing to the support of the church?

Mr. Foulds: I object to the question upon the ground that the question relates to the present time.

Q. I mean previous to January 7th, 1912? A. According to my knowledge, Jacob Brauer paid as much in contributions as any other member of the church. He paid his pew rent and he contributed in the general collections. Whether he subscribed any special gift that is a thing I do not know.

Q. I repeat the question. Does he appear upon the financial books of the North Side Christian Reformed Church as contributing to the church support prior to January 7th?

Mr. Foulds: I object upon the ground that the books are the best evidence.

Mr. Dalrymple: I think we have a right to insist upon the witness giving us an explanation of his answer that Jacob Brauer contributed to the support of the church.

Mr. Foulds: I repeat my objection and instruct the witness that he may refer to the book before he is called upon to state what the books show. Further, I call upon counsel for the defendants to produce the books.

Mr. Dalrymple: Counsel for the relators well knows that the books are in the hands of the master who is directed to keep them in his custody.

Q. John Hoedeman—did he support the church prior to January 7th? A. I think there are two by the name of Johannes Hoedeman. I think there is a senior and junior of that name. I know they had a pew and paid their rent, and of course they contributed in the general collections whenever they were in church; but let me say this: Johannes Hoedeman, Jr. was not a man what attended church regularly. That is all I can say in that regard.

Q. I see by the testimony here that Johannes Hoedeman had not attended church for two years. Do you

know whether that is true or not? A. I do not think that is true.

Q. Was Cornelius Matt, prior to January 7th, a contributor to the support of the church? A. Yes.

Q. Did he attend the North Side Church regularly? A. Yes.

Q. Didn't he attend the Hope Avenue Church? A. He might have gone there once in a while.

Q. Reink Spaanstra, didn't he go to the Hope Avenue Church? A. He called for his attest to be sent over to Hope Avenue, which was not granted. Prior to the calling for his attest he attended church regularly; how regularly he attended after that, I don't know.

Q. John Topp, you say, was not under censure, is that true or not? A. We have looked for it in the minute book and could not find any record that he was.

Q. Don't you know, as a matter of fact, that he was censured for drunkenness? A. No.

Q. Did he attend church? A. Yes; he did.

Q. How often? A. Quite regularly.

Q. Did he contribute to the support of the church? A. Yes.

Q. Did Van der Laau call for his papers? A. Yes.

Q. Did he go to any other church? A. I don't think he did.

Q. Was he contributing to the support of the North Side Church prior to January 7th? A. Yes.

Q. P. Van der Hey, where was he attending church? A. No other church; the North Side.

Q. Did he call for his papers? A. He did.

Q. As a matter of fact, didn't he attend the Hope Avenue Church? A. He might some times; I don't know how often.

Q. Was P. Van der Hey, Sr., under censure? A. Not at that time.

Q. Not at that time? A. Not in the last six months, or at least five months, of 1911.

Q. The books would show that, would they not? A. Yes.

Q. Cornelius Ver Wey, was he supporting the church? A. Yes.

Q. Was Nuis supporting the church? A. Yes.

Q. Was Jacob Verbiert under censure? A. That is something I could not say for sure; I don't think he was on the record.

Q. You say that you did not create any disturbance on the morning of February 18th—I think it was—at the church. Didn't you appear at the church door after the services had commenced and demand admission with Rev. Krone? A. Yes. Rev. Krone was to preach for the North Side congregation that day, and I, as an elder, came in the church with the Rev. Krone. When we got up to the front door we were met by several men which wanted to bar the way for us not to come into the church at all. Notwithstanding that, we did go in and went up the aisle for Rev. Krone to get on the pulpit to preach the Gospel, and when he was perhaps about twenty feet away from the pulpit he was forcibly stopped to go no further.

Q. Then, you did create a disturbance by going in? A. No.

Q. You say that you were requested at the door not to come in. Is that right? A. That is right.

Q. After being requested, you forced your way in? A. No.

Q. You went in? A. Yes.

Q. And you went up to the front? A. Yes.

Q. And you addressed the congregation whether they should have the Rev. Krone to preach, did you not? A. Not then.

Q. Didn't you go to the front and address the congregation whether they should have the Rev. Krone to preach—yes or no? A. After the Rev. Krone was forcibly stopped from going to the pulpit—Rev. Krone

is a minister of our denomination and by orders of the court we had to have a minister of our denomination to preach the Gospel for us—and I, as an elder, came to the church with Rev. Krone, to lead him to the pulpit; and so, as I say, we could not get any further than about twenty feet away from the pulpit when he was forcibly stopped by some censured members.

Q. If you had not appeared there with the Rev. Krone, there would not have been any disturbance, would there? A. That is something what I don't know. How on earth could I know?

Q. The mere fact of forcing your way into the church created a disturbance, did it not? A. Did I come there for the purpose of creating a disturbance?

Q. (Repeated.) The mere fact of forcing your way into the church, created a disturbance, did it not? A. It is my duty on the Sabbath to go to the house of worship to attend holy services; and so I did on that Sunday, as well as any other Sunday.

Q. But the mere fact of your going there on this particular day did create a disturbance: is not that so? A. The reason of the disturbance was that there was a lot of people in the church with the object of making a disturbance.

Q. How do you know? A. It stands itself to be seen.

Q. And you supplied the other end of the disturbance; is that not so? A. As far as I am concerned, and also Rev. Krone and the members of the consistory, we did not do anything whatsoever to create a disturbance.

Q. You forced yourself into the church, did you not? A. We did not force ourselves in.

Q. You went in? A. We simply disregarded the request not to attend services that day.

Q. After the Rev. Krone was not allowed to preach in the church that Sunday did you hold any other services that day? A. That day; yes.

Q. Where? A. When we could not attend services in our own building, we went to Prospect Street and attended services over in their edifice; they granted us the privilege.

Q. You continued to hold services there until the order of March 28th, did you not? A. Yes.

Q. Were there any services held in the North Side Church that Sunday that you know of, February 18th? A. I don't know; I know there was people in the church, but I guess they were not there for the purpose of holding services.

GARIT WESTENBERG, a witness already sworn on the part of the relators, recalled and testifies as follows in rebuttal:

Direct-examination by Mr. Foulds:

Q. You stated on your previous examination that you are the stated clerk of Classis of Hudson? A. Yes, sir.

Q. That is correct? A. Yes.

Q. Were the minutes of the special Classis of Hudson held January 11, 1912, a translation of which is in evidence as R-7, submitted to the synod? A. Yes, sir.

Q. Have you the decision of the synod on that matter and other matters referred to it in connection with this dispute? A. Yes.

Q. Will you produce them? A. They are found in the Acta der Synode, 1912, on page 61, Article 78; of which I can produce a translation in the English language, because the original is in Holland.

Mr. Foulds: The paper produced by the witness is offered in evidence.

Mr. Dalrymple: I object to it at this time

until I know what the translation is. I object to the offer of the book without the translation.

Q. Have you the translation of the exhibit referred to? A. Yes.

Q. Please produce it. A. (Witness produces paper.)

Q. Is the paper which you now produce a correct translation of that portion of the minutes which you have referred to? A. Yes, sir.

Mr. Foulds: I offer the translation in evidence, together with the original book.

Mr. Dalrymple. I withdraw my objections to the book.

Book is marked Exhibit R-16. Paper, being translation referred to by witness is marked Exhibit R-17.

Q. It has been testified that there was an appeal taken from the action of Classis Hudson to synod. Is the paper Exhibit R-16 and the translation Exhibit R-17, the action of the synod on that appeal? A. It is.

Q. Will you explain the fourth paragraph of this exhibit to the effect that the articles of the Church Manual have been correctly interpreted as applied by Classis Hudson? A. Yes, sir. The Classis of Hudson brought all the official actions of the classis to synod in order to clear synod on the matter, so that synod might understand the whole matter from beginning to end and all the decisions that classis had at any time taken in regard to the North Side question; and classis also referred synod to the Articles of Dort, asking whether those articles, as far as they referred to the North Side case, has been correctly interpreted by the classis, and the actions were confirmed by these articles. This was necessary because that appeal was brought, to synod, and, therefore synod needed the entire matter clearly before it; and,

thereupon, this decision of synod was brought out, stating that the interpretation of classis was according to the Articles of Dort, in as far as the articles had reference to the case.

Q. You used the term "clear synod." What did you mean by that? A. To make the entire matter clear to synod because synod is the highest court of the church.

Q. That is the supreme authority? A. Yes, the supreme authority.

Q. It has been testified by Mr. Van den Heuvel that the rules printed in pages 45 to 86 of the Church Manual, and which have been marked in evidence as Defendants' Exhibit D-2, applied to churches of the Christian Reformed denomination. What have you to say with reference to that? A. That is not true of the Christian Reformed church in general, only of the Classis of Hackensack, ecclesiastically known as Christian Reformed Churches. They have never been applied to any of the other Christian Reformed Churches and cannot be legally applied to them. They were simply granted as a concession of synod to these churches, because they had them before they united with us.

Q. Rev. Van den Heuvel has stated that he was not under no disability whatsoever on January 7th, at the time he attempted to install certain elders and deacons of the North Side Church. What have you to say with reference to that A. Well, he certainly was disabled or disqualified to do any legal action in the church of North Side because classis, which is the higher church court and over all the consistories, had disqualified him officially for all actions in the North Side Christian Reformed Church.

Q. He testified at the time of this so-called service of installation on January 7th, he had been ordered by classis to withold himself from work in the congregation of North Side. Was that true? A. Yes, sir.

Q. What was the effect of that action of Classis Hudson? A. That he has remained at home and that he has never attempted any official work until he came there, as it was said, to do this action which was illegal.

Mr. Dalrymple: I object to the answer as being hearsay and not relevant to this inquiry.

Q. Did he have authority, in view of that action of Classis Hudson, to install elders and deacons? A. He did not.

Q. Did the Classis of Hudson have authority to make such action? A. It certainly did.

Mr. Dalrymple: I object to that as being opinion evidence.

Q. And is the action of synod, which is in evidence, as Exhibit R-16 and Exhibit R-17, a confirmation of that power of Classis Hudson? A. It certainly is.

Q. You have testified on your former examination that you made a study of the rules and laws governing the Christian Reformed denomination, I believe? A. Yes, sir.

Q. Is that correct? A. Yes, sir.

Q. Will you state whether, after elders and deacons have been elected and before their installation, the consistory has any power to delay such installation? A. Consistory has the power to delay such installation.

Q. What is the power of the consistory with reference to delaying installation of elders and deacons? A. To again consider the question whether they are fit persons for the office, and if the consistory finds, according to the decree of that consistory that they are not, then the consistory may not install such persons.

Q. When are elders and deacons elect invested with their offices? A. After the installation has been completed?

Q. Before the election and installation have elders and deacons elect any power whatever as such? A. They have not.

Q. It has been testified that their office is complete upon their election, and that the installation is a mere formality; is that true? A. No, sir.

Q. Why do you so answer? A. Because Article 22 refers specifically to the installation as the completion of those offices, and we have the form for installation as forms of final action necessary in the church, to which also every minister subscribes to hold those forms according to the laws and the usages in our churches.

Q. Have you ever known of a deacon or elder elect taking his office before installation? A. No, sir; and it would not be lawful for such an action. If such an action should have been taken in any congregation, and if any congregation at any time should have done so without knowledge of classis or synod, of course such a thing could not be corrected; but where it had been brought or would have been brought to classis or synod, such persons or consistories that have done it would certainly have been disciplined.

Q. Have you had any experience in churches in the west? A. Yes, sir; I have been a minister in Iowa and have been there in the classical committee as I am at present with the Classis of Hudson, and I have been a minister in Michigan and also there had the same functions, and I have been all over the west as far as our churches were known at that time, with a few exceptions only, and I have never come across a case of that kind.

Q. Did this rule which you have stated hold in force ten years ago? A. Yes, sir.

Q. Do you know with what churches in the west Rev. Van den Heuvel was connected? A. I do.

Q. If any deacons or elders elect in those churches had taken office before their installation, would you

have been likely to have known of it? A. Likely, yes; but such a thing might have happened, though without my knowledge, because when there is no objection raised in a congregation, that congregation lives by itself a great deal and then illegal things might be done by such a congregation without ever coming to the knowledge of classis or synod; but if such a thing should have been done, and it should have been brought to the knowledge of classis or synod, the classis or synod would certainly have corrected that matter, and if the office bearers would not correct it, they would have been censured.

Q. Then, if any such thing took place, it was secret? A. It was secret.

Q. After elders and deacons have been elected and a date has been fixed for the installation, and objections are presented to the consistory against their installation, what vote is required to delay such proposed installation? A. A majority vote.

Q. Why do you so answer? A. Because the objection made by the member or congregation makes the former actions of the consistory in regard to the installation null and void, and the action by the consistory will be as a vote on a new action, as if no action had been taken before. A member of the congregation has, at any time, a right to object, and the consistory again decides as if it had never decided before whether they shall be installed or not.

Q. After the election of elders and deacons are the names of the person so elected published? A. Yes, sir.

Q. For what purpose? A. For the purpose that the congregation may have a right and a time to make objection to the installation before the consistory.

Q. Have you ever known of such objections being made? A. Yes, sir.

Q. What is the custom and practice of the Christian Reformed denomination when such objections are

made after the election and before the installation? A. The consistory considers those objections to see whether the consistory deems them legal or not by a majority of vote, and if the consistory deems them legal objections the installation is postponed and if necessary brought to classis as the higher church tribunal, for classis to decide.

Q. And during this postponement or delay of installation have the deacons and elders elect any power or authority by virtue of their election? A. None at all.

Q. After the consistory has decided to delay the installation in this matter has any minister the power or authority to install such deacons and elders elect? A. No, sir; there will be no lawful installation possible unless the consistory has voted that such installation shall be made by majority of vote, or after the matter has been brought to the higher church courts and there it has been decided that the consistory is wrong and must necessarily continue.

Q. After the consistory has decided to delay the installation has the congregation any power or authority to overrule the action of the consistory by its own vote? A. The congregation has never any authority to overrule a decision of the consistory, but they have full right to appeal to classis, or if necessary, to synod for a correction of such action of the consistory.

Q. Is the Reformed Church a sect or denomination entirely separate and distinct from the Christian Reformed Church? A. The Reformed Church is completely distinct and has nothing to do with the rules and regulations and with the church known as the Christian Reformed Church.

Q. After a member has presented his request for letters of demission or attest, as it has been called, has such member any right to vote before his attest is granted? A. Such a member remains a member of a

church until that attest or those letters have been received by the consistory of the church to which they are directed, and he has full right and authority and remains a member in good standing or in official standing in the church from which he has asked the letters.

Q. Have deacons and elders who are under censure any power or authority to exercise the functions of their office? A. No, sir.

CROSS-EXAMINATION by Mr. Dalrymple:

Q. Did the Rev. Ven den Heuvel on January 7th, 1912, have ecclesiastical authority at that time? A. On January 7th? That was the date that the so-called installation took place?

Q. Yes. A. He had no authority then.

Q. You do not understand the question.

Mr. Foulds: I object to such statement.

Q. I will repeat the question: Did the Rev. Van den Heuvel on January 7th, 1912, have ecclesiastical authority at that time? A. He had no ecclesiastical authority in the church of North Side particular because the classis so decided that he could not do any official action lawfully in that church.

Q. Was he a minister at that time? A. He was.

Q. The Christian Reformed Church seceded from the Reformed Church in America, did it not? A. No, sir.

Q. What did they do? A. They went back to the old standpoint which they had left.

Q. They left the Reformed Church to do that? A. Yes, sir.

Relators' Witness, Herbert Prinz, Direct, Cross

HERBERT PRINZ, a witness already sworn on the part of the relators, recalled and further testifies as follows, in rebuttal:

Direct-examination by Mr. Foulds:

Q. Mr. Dalrymple has testified that at a meeting at the North Side Church on January 9th last, that you and Mr. Hornstra were present, and that all those present voted in an affirmative vote by a rising vote. Did you so vote? A. We were not present there to be at that meeting. We were there for about a quarter of an hour—I don't think it was a quarter of an hour—just to hand papers to the people. There were fourteen there what were censured—just to give them notice by a letter that they were censured. That is all that we were there for, and we did not vote at all.

Q. Did you take any part in the meeting at all? A. No.

Q. Did you vote? A. No; no.

Q. Did you attend the meeting on January 7th, at which the attempted installation took place? A. No, sir; because it was announced from the pulpit that it should be an illegal meeting. We did not go up there.

Q. You mean that before that meeting of January 7th at which the attempted installation took place, it was formally announced from the pulpit that the meeting would be illegal? A. That was announced from the pulpit.

CROSS-EXAMINATION by Mr. Dalrymple:

Q. Who called the meeting? A. Bast.

Q. He was secretary of the consistory at that time, was he not? A. Yes, sir.

Q. You say that you attended this meeting of January 9th, to deliver censure papers to some fourteen members? A. Yes.

Q. Who censured those members? A. The consistory.

Q. What consistory? A. Of North Side.

Q. Where did they hold that meeting of the consistory? A. They held that meeting at Hornstra's house.

Q. That meeting was not held in the church? A. No; because we were not allowed to come into the church.

Q. If that was a consistory of the North Side Church it would have been held in the North Side Church, would it not? A. No, sir; we tried to get into the consistory room, but we could not get in because the opposite party held it.

Q. The so called opposite party had possession of the church? A. They took possession.

Q. They had possession of it? A. They took possession, of course.

Q. Was any of the meetings of your so called consistory held in the church from January 7th to March 28th? A. In the church?

Q. Yes?

Mr. Foulds: I object to the question upon the ground that it is not proper cross-examination.

Q. I repeat the question: Has any of your so called consistory meetings been held in North Side Church from January 7th to March 28th, when the order of the court was made to give a division of the church to both sides? A. There was no meeting held, because if we should have a meeting there we would have to fight for the room, and we did not want to do that.

By Mr. Foulds:

Q. Did you, under the circumstances which you have stated, hold your meeting in the place nearest to

the church which you found available? A. Yes, sir.

Q. The Hornstra property, where you held your meeting, adjoins the property of North Side Church in the rear? A. Yes; the rear parts of the land come together there.

RELATORS REST.

Rebuttal on the Part of Defendants.

ARIE J. VAN DEN HEUVEL, a witness already sworn on the part of the defendants, recalled and further testifies as follows, in rebuttal:

Direct-examination by Mr. Dalrymple:

Q. Have you any corrections to make in your testimony as it has been transcribed? A. Yes. On page 175 of the stenographer's transcript it reads, about the middle of the page, "because they have both the same communion of faith, the three forms of unity." It should be "confession of faith, the three forms of unity."

On page 176 it reads now: "I installed them as a minister of the Christian Reformed Denomination of North Side." It should be: "I installed them as a minister of the Christian Reformed Congregation of North Side."

On page 177 it reads: "Organic Unity between the organization itself." It should be: "Organic Unity of the organization itself."

On page 177, just below the middle of the page, where it gives the date 1823, it should me 1822. It should be "They had different names since 1822." It reads now: "They had different names before 1823." It also reads now: "In 1857 there was a secession of

the west." That should be: "They had different names since 1822, the secession of the east, and in 1857 the secession of the west."

On page 178, in the fourth line of the second answer it says now: "Parliamentary words." It should be: "Parliamentary rules."

On page 179 it reads now: "It cannot be otherwise, because the Christian Reformed Church is, in its system, that kind of an organization, that kind of a church, that the synod rules; that is our history; that is where we object." I want to fill in there: "That kind of a church government that the Synod rules; that is found in our history, that is where we object; that is the congregation."

On page 169 it reads here in the third line from the bottom of the page: "Do you believe that you are legally elected by this congregation and this consistory, called to this office?" That should be: "Do you believe that you are legally elected by this congregation, and, therefore, from God called to this office?"

On page 162 it reads now, in the seventh line from the top of the page, "would have a perfect right to object to their regulations." It should be: "Object to their rulings."

Then, on the same page, in the eleventh line it now says: "You might say, for the men that are going to serve them." It should be: "The consistory men that are going to serve them."

On the same page, ninth line from the bottom of the page, it reads now: "And regulations laid down ruling the congregation." I would like to put that, "governing the congregation."

CASE CLOSED.

Exhibit D-1.

Translation of Minutes of Northside Church.

Minutes of the Consistory Meeting, Oct. 31, 1910.

* * * * * *

8. Resolved: That the retiring members of consistory are elligible for re-election.

9. The making of nominations for elders and deacons was made the order. The brethern elders M. Klapmuts and C. Maat, also deacons W. Atsma and C. Snoep wished to be considered no further.

10. The result of the vote for nomination was, for elders, as candidates, the brethern John Groenhof, M. J. Bast, Hubrecht Snoep and Fedde DeRuiter, Sr., were designated. For deacons, the brethern Peter Vander Plaat, Leonard Osterhoud, Wick DeVries and Leo Wynbeek.

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Minutes of the Congregational Meeting held Nov. 24, 1910.

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6. Inasmuch as the meeting was held mainly for the purpose of electing consistory members, the meeting proceeded to do so, after having previously resolved that one-half plus one should be a decisive vote. There were 53 members present; three votes by proxy having come in from members who were not able to be present; making a total of 56 votes as follows: For elders the vote was:

44 votes for J. Groenhof
36 votes for M. J. Bast
20 votes for F. DeRuiter
7 votes for H. Van Reken

The result accordingly was that Bros. J. Groenhof and M. J. Bast were elected as elders.

The vote for deacons was next taken, the same number of votes as above said, of which the vote was as follows:

39 votes for P. Vander Plaat
30 votes for L. Wynbeek
25 votes for J. DeLeew
17 votes for L. Osterhoud.

The result of this vote was the election of Bros. P. Vander Plaat and L. Wynbeek as deacons.

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Consistory Meeting, held October 23rd, 1911.

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14. *The election of the consistory.*

(a) The consistory resolves that henceforth retiring consistory members shall not be elligible for re-election, so long as the contrary is not necessary. The following are chosen for candidacy for the next election: L. Bangma, C. Herder, J. Pruiksma, F. DeRuiter, H. Snoep, and J. Zylstra for elders; and M. Haakmeester, E. Lazare, L. Osterhoud and W. S. DeVries for deacons.

(b) The turn to retire as elders is up to the brothers Schilstra, Hornstra and Prins, and as deacons W. Pontier, and Chr. Bergsma. A motion to change the number of elders from five to four is refused.

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Minutes of Consistory Meeting, Oct. 30, 1911.

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8. *Nomination.* The consistory resolved that the grounds given by the candidates were not sufficient and were not accepted by the consistory. Wherefore the consistory resolved not to change the list of candidates.

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Congregational Meeting, Nov. 15, 1911.

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3. *Election.* Out of the previously stated candidates, six for elders and four for deacons, which were, namely, for elders: L. Bangma, C. Herder, J. Pruiksma, F. DeRuiter, H. Snoep, J. Zylstra; for deacons, M. Haakmeester, E. Lazare, L. Osterhout, W. S. DeVries. The following were elected: F. DeRuiter, H. Snoep, J. Zylstra, for elders; and M. Haakmeester, W. S. DeVries, as deacons. There were 43 votes.

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Minutes of the Consistory Meeting, held Nov. 20, 1911.

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3. *W. S. DeVries and H. Snoep.* These two brothers come to the meeting and say that they feel that they are in no condition to accept the candidacy on the grounds named by them before and mentioned in the minutes. The Pres. points out to them their responsibility, but this did not cause the brethern to change their opinion. The consistory thereupon resolved the

following: "The consistory have heard the decisive declination of the brethern DeVries and Snoep, and declares that it is hereby very much disappointed because such a thing should not occur in the church of Christ." With this deliverance of consistory the said brethern departed. Bro. Schilstra registers a protest against the resolution taken.

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9. *Candidates.* The consistory resolved to supply the places made vacant by the resignation of two brethern by nominating new candidates. Those for elders: C. Herder and G. DeRoos. For deacons: L. Bangma and S. Roosma.

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Consistory Meeting, held on December 19, 1911.

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3. *Election.* Resolved to call together the congregation at eight o'clock P. M. Wednesday, December 27th, to vote for one elder and one deacon. This meeting shall be led by Rev. Westenberg. Further resolved to install the brethern elected, on the first Sunday in January.

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Congregational Meeting, Dec. 27, 1911.

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3. *Election.* Out of the previously stated candidates Bros. C. Herder and C. DeRoos for elders, G. DeRoos was elected; and for deacons of Bros. L.

Bangma and S. Roosma the latter was elected. There were 53 votes.

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Consistory Meeting, held January 4th, 1912.

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4. *Grievances.* At the meeting were 10 brethern of the congregation: M. Klapmuts, P. Maat, H. Bosloper, G. Nuis, D. Vander Laan, R. Spaanstra, W. Atsma, C. Snoep, J. Brouwer, to present grievances against the newly elected members of the consistory, as to installing them. The grounds for the protest were that these bretheren do not come regularly to the preaching services and so do not behave themselves well and show therein that they oppose themselves to the resolution of Classis. The consistory resolved to refer to this matter later in the evening, whereupon the brethern departed.

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7. *Grievances.* Bro. Pontier says that the accusations of the brethern are correct. The suspicion is very strong that the new consistory will oppose themselves against the acts of Classis. Bro. Schilstra says that "Classis has not done right. The Classis has given Vanden Heuvel vacation, and this was not right; the minister should be allowed to continue to preach until Synod. Now a minister from a distance has to come to preach while our own minister is shut up in the parsonage." Rev. Westenberg thereupon brought up a proposition of the following content: That the consistory shall submit itself to the acts of Classis. That if they declare themselves against, they shall be regarded as mutineers and those shall be suspended;

that the old members of consistory shall remain in office until after Synod, that the consistory henceforth shall consist of eight elders and six deacons, and that the old ones shall have no part in the usual proceedings, but shall retain full right of vote in matters in which they shall be invoked by the consistory of Hope Ave.; that no congregational meeting is permitted to be held except with the approbation of the old consistory members; that this proposition shall not be changed, except by the approbation of the old consistory.

Hereupon the consistory resolved to postpone the installation and submit this motion first to the judgment of this consistory, the consistory of Hope Ave., and still a third consistory. This motion stuck, with 4 against 4, whereupon Rev. Westenberg decided the vote. The choice of the third consistory and their convocation is left to the Hope Ave. consistory.

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Congregational Meeting, January 7th, 1912.

1. *Opening.* Vice Pres. of the consistory opens the meeting with prayer.

2. *Presidency.* The Secretary moves to nominate out of our own number a president, Bro. Zylstra, by acclamation; this was approved by unanimous vote.

3. *Purpose of the meeting.* The president explained the purpose of the meeting and said that it was called together in order to declare as a congregation whether or not the installation of the five newly elected members of consistory shall take place at the time legally designated therefore. If so, how and when this must take place. After a wide discussion of this point it appeared necessary that the congregation must first

determine: Shall we vindicate ourselves in the existing circumstances in the Classis Hudson or not? The following thought was proposed to the meeting:

The Northside Christian Reformed Church at Passaic, N. J., declare that it cannot and must not submit to the decree of Classis Hudson made concerning this congregation and the minister, and declares that she as a congregation severs itself from the Classis Hudson; but abides by and maintains our Reformed Confession of Faith and clings to the Word of God; that she, in the prosecution of the means of grace entrusted to her, feels herself compelled to vindicate her responsibility before God. A vote was taken on this motion, with the right to give others not present a chance to sustain or oppose the same; of the 49 persons present, 46 declared themselves in favor of severance, 2 against and one held himself neutral.

4. *Installation.* Resolved by unanimous vote that we cannot submit ourselves to the illegal act taken by the consistory on January 4th, but cling to the legal decision previously taken and published (see minutes, Dec. 19, 1911, Art. 3), to install the newly elected brethern on this day; that we therefore request the Rev. A. J. Vanden Heuvel to consummate this today; and to continue with us as heretofore; in order that we, the Rev. A. J. Vanden Heuvel, M. J. Bast, John Groenhof, F. DeRuiter, J. Zylstra, M. Haakmeester and S. Roosma, as deacons, may be declared to be legally called, elected and installed in our offices as members of the consistory of the Northside Chr. Ref. Church of Passaic, N. J., in the several meetings of the congregation held for that purpose, and the elected brethern are properly installed at this request of the assembled congregation. On all the grounds, we as a congregation declare that the above named constitute the legally called, elected and installed minister, elders and deacons of the consistory of the Northside Chr.

Ref. Church of Passaic, N. J., whom we authorized to act according to their duty involved in their office, in all matters that may occur; with the power and authority conferred upon them by law.

The Minister. The President instructs the secretary to invite the minister to come into the meeting. The secretary complied therewith, and while the minister entered the church building the congregation arose and sang Ps. 134:4. Thereupon the President explained to the pastor the resolution and request of those assembled. Thereupon the minister ascended the platform and in cordial words declared his assent and thereupon proceeded to the installation of the newly elected brethern, which was executed according to the proper stipulations mentioned in the church rules and a brief sermon on John 14:1.

This meeting and divine service was closed after prayer and Psalm singing and the benediction by the Pastor.

J. SISCO, Pres.
M. J. BAST, Sec.

Congregational Meeting, Jan. 9, 1912.

1. *Opening.* The Pres., Bro. J. Zylstra, opened the meeting with prayer, after singing Ps. 84:3.

2. *Convocation.* This meeting of the congregation was lawfully called by 9 members of the congregation.

3. *Purpose of the meeting.* The Pres. explained to the meeting that it was called together for the purpose of approving and ratifying the proceedings of last Sunday, mentioned in the minutes.

4. *Minutes.* These were read, and opportunity given for corrections; all the names of persons who had

voted in favor of the resolution and also of the 5 who had later voted in favor, were read; while no adverse vote had been received. After having given complete satisfaction to all the questions that were asked the President asked for a rising vote, which disclosed that the minutes were accepted, approved and established by unanimous vote. Thereupon some questions were asked by an attorney who was present.

5. *Publicity.* The congregation resolved to leave to the consistory the publication of this matter in the daily and church papers.

6. *Close.* Rev. Vanden Heuvel closed with prayer.

A. J. VANDEN HEUVEL, Pres.
M. J. BAST, Secretary.

Exhibit D-7.

List of Male Members of Northside Church, January 7, 1912.

Atsma, W.; Bast, Martinus J.; Bergsma, Christophel; Bangma, Lieuwe; Bosloper, Hendrik; Brouwer, Jacob; Clever, Christian F. R.; DeVries, Rein S.; DeRuiter, Fedde; DeVries, Wiebe; DeVries, Oker; DeRuiter, Klass; DeJonge, Peter F.; DeVries, Nanne; DeVries, Klass; DeBeer, Frank; DeLeeuw, Jacob; DeLeeuw, Hendrikus; DeRoss, Gerlof; Freen, Herbert; Grunstra, William H.; Grunstra, Peter; Groenewegen, Nicholas; Groenhof, Johannes; Hoedeman, Hendrik; Hoedeman, Johannes; Hornstra, Nicholas; Heimstra, Weybren H.; Hannema, Sjoerd; Haakmeester, Martinus; Harder, Yme; Harder, Cornelius; Haakmeester, Hendrik; Hettema, Cornelius; Hammersma, John; Klapmuts, Mathys; Klapmuts, John;

Kuiper, William; Krotje, Berend; Luiman, Paul; Lazarrers, Edward P. L.; Maat, Cent; Maat, Peter; Maat, Cornelius; Nuis, Gezenis; Nyland, William; Oosterhout, Leffert K.; Prins, Huibrecht; Pruiksma, Jetze; Pruiksma, W.; Pruiksma, Theodore; Pontier, William S.; Prins, John A.; Rienstra, Klass; Regnery, John A.; Roosma, Siebe; Snoep, Franciscus; Snoep, Herbert; Snoep, Catherinus W.; Spaanstra, Reink; Schilstra, John; Spaanstra, Lambert; Spaanstra, Otte; Sjerp, Samuel C.; Schoonhagen, Hubertus; Top, John; Terpstra, Wybren; Ten Hoeve, Jacobus; Tamboer, Kryn; Thomas, Jacob; Verhagen, Jacob; Van Vliet, Cornelius; Van Zoest, Hendrik; Vander Laan, Dirk; Visser, Leendert; Visser, Josias; Vander Hey, Peter, Jr.; Vander Hey, Peter, Sr.; Verbiert, Johannes; Vanden Heuvel, Rev. Arie J.; Verwey, Cornelius; Vanden Handel, Cornelius; Van Beveren, Maarten; Verbiert, Denman; Van Genderen, Cornelius Ph.; Van Reken, Hendrik; Veenstra, Gerrit; Vanden Horn, Klaas; Vander Groef, Hendrik; Vander Plaat, Peter; Van Dyk, Adriaan; Vanden Heuvel, Dirk; Ward, John M.; Wynbeek, Leonardus; Wallenburg, William; Zylstra, John; Zoeteman, Denman; Zoeteman, Johannes.

Exhibit R-17.

Translation of Minutes of Synod, 1912.

The Synod expresses the following:

1. That the consistory of the congregation of Northside, Passaic, N. J., had the right to, after complaints had been lodged against the newly chosen for elders and deacons, postpone the installation of those brethern until closer investigation was made.

2. That justly the office of the old consistory members was extended, in order that they should have opportunity to decide whether the complaints against the newly chosen were lawful.

3. That the consistory members whose terms were to expire legally continued in their office, owing to the illegal installation of the newly chosen men by Rev. Van den Heuvel and were duly recognized by Classis Hudson as legal consistory members and trustees of the congregation.

4. That the Articles of the Church Manual mentioned in the Synodical Agendum, in as far as they have a bearing on the aforementioned points, have been correctly interpreted and applied by Classis Hudson.

J. B. HOEKSTRA, Clerk.

OPINION OF SUPREME COURT.

NEW JERSEY SUPREME COURT,

NOVEMBER TERM, 1912.

THE STATE OF NEW JERSEY, EX REL., NICK HORNSTRA ET AL.,

vs.

MARTINUS BAST ET AL.

Argued November Term, 1912; decided February Term, 1913.

On rule to show cause why a writ of quo warranto should not issue.

ANDREW FOULDS, Jr., AND LEWIS A. ALLEN, for the rule.

GEORGE H. DALRYMPLE, GILBERT COLLINS AND CHARLES B. BRADLEY, contra.

Argued before TRENCHARD AND MINTURN, J. J.

PER CURIAM:

The question involved upon this application relates to the title of the defendants to the offices of elders and deacons of the Northside Christian Reformed Church of Passaic. The writ applied for is entirely within the discretion of the Court to allow or refuse, as it may deem expedient, not only in view of the inherent legal right of the matter involved, but in view also of the ultimate legal or moral end which is sought to be accomplished by its use.

High on ex. leg., Rem., 473.
State v. Tolan, 33 N. J. L., 195.

It is quite clear that on January 7, 1912, the title of the defendants was unimpeachable. If the three newly elected defendants had been installed upon that day before the vote of separation, it could not reasonably be claimed that they were not duly constituted members of the consistory of the Northside Church.

The question is, what was the effect of the vote of separation on January 7th, which was apparently ratified at the meeting of January 9th, at which meeting, also, the installation of the newly elected members was ratified.

The determination of that inquiry involves an examination of the right of the congregation of the Northside Church as such, to separate from the denomination of the Christian Reformed Church, and to continue as an independent legal unit under the general law governing the affairs of Reformed churches.

Upon the question of notice to the congregation, we think substantially and for all practical purposes, notice of the ratification meeting on January 9th, was given, and that it cannot be reasonably urged that any member of the congregation was misled as to that meeting.

We think the right of severance existed, and that such in effect was the determination of this Court in Pulis vs. Iserman, 71 N. J. L., 408.

We think the case at bar in its essential features is akin to that case.

We think also, that the views of Mr. Justice Dixon, expressed in that case, as reasons why the defendants there "should not be vexed, with further avoidable litigation," are equally apt in the case at bar to warrant us in declining to allow the writ.

Such will be the rule.

JUDGMENT OF SUPREME COURT.

NEW JERSEY SUPREME COURT.

THE STATE OF NEW JERSEY, EX REL., NICK HORNSTRA ET AL.,
vs.
MARTINUS BAST ET AL.
In Re Quo Warranto.

The rule to show cause why leave should not be granted the relators to file an information in the nature of a quo warranto against the defendants, allowed in this cause, coming on to be heard in presence of counsel for both parties at the November Term of this Court; and the Court having considered the evidence taken under said rule and the arguments of said counsel, and being of opinion that leave to file such an information should be denied:

It is ordered, that the said rule to show cause be and the same hereby is discharged with costs to the defendants to be taxed.

Entered March 7, 1913.

On motion of
COLLINS & CORBIN,
Attorneys of Defendants.