

There thus remained in controversy between the parties only the Building Fund, the Ladies Auxiliary Fund, the Sermons and Theatre's Fund, and the question as to the proper disposition to be made of any moneys in respect of which the defendants were accountable.

As to the Building Fund, the learned Chief Justice, after reviewing the evidence, stated his conclusion that the defendant R. C. Evans had failed to shew any ground upon which he should be relieved of liability to account for all subscriptions received by him for the erection of the new church of the Toronto branch of the Reorganised Church. The appeal on this branch should be allowed.

As to the Ladies Auxiliary Fund, the learned Chief Justice was of opinion that the plaintiffs' claim failed and was properly dismissed by the trial Judge.

The next claim was for moneys collected by the defendant Evans at theatre meetings and from the sale of his sermons. The learned Chief Justice was of opinion that these theatre and sermon activities were personal ventures of the defendant Evans, the profits and losses being his and not the Toronto branch's. Evans disclaimed any intention of profiting personally by them, but that disclaimer did not give the Toronto branch the right to the profits, nor was the parent church entitled to them. This claim of the plaintiffs was, therefore, properly dismissed.

One of the plaintiffs, Bishop McGuire, was one of the members who unitedly constituted the bishopric, and was its presiding head; and the learned Chief Justice was of opinion that the defendant Evans (Bishop Evans) was accountable, in respect of collections for the Building Fund, to the bishopric, that is, to all the members thereof as to one set of trustees, and not to one of them only, and that, therefore, the action was defective for want of necessary parties, but that leave should be given to amend by adding all necessary parties, such amendment to be made within one month from the issue of the order upon this appeal, or such further time as a Judge may allow. If the amendment is so made, there will be a reference to determine the amount owing by the defendant Evans—further directions and costs reserved.

The action should be dismissed as against all the other defendants.

All the defendants having appeared by the same solicitor and counsel, there should, if the amendments are made, be no costs as between the plaintiffs and the defendant Evans down to and including this appeal. The other defendants should have one-half of their full costs paid by the plaintiffs. If the amendments are not made, the appeal should be dismissed with costs.