

Eng. Rep.]

COOPER V. GORDON.

[Eng. Rep.]

the said society or congregation of Protestant Dissenters from the Church of England then belonging thereto, commonly called Independents, and which should from time to time resort to and frequent the said meeting-house and premises, and become members of the said society for the exercise of divine worship therein, and peaceably and quietly to permit and suffer them, and every one of them, to exercise their religion therein, and freely to enter and bury their dead therein, or in some part or parts thereof, under and subject to such orders, rules, regulations, and restrictions as had been and were or should be made and observed in the said society or other religious institutions of the like nature." And as to the house, which was the residue of the premises, "upon trust to permit and suffer the minister or pastor, for the time being, of the said society or congregation of Protestant Dissenters, called Independents, who did or should from time to time meet in the said meeting-house for the exercise of divine worship as aforesaid, to have the use and occupation of the same, or otherwise to receive and pay the rents and profits thereof to such minister or pastor, as the same should become due and payable, for so long a time as such minister or pastor should from time to time be and continue minister or pastor of the said society or congregation, and officiate as such, and no longer, to and for his and their own use and benefit."

The plaintiffs and the defendant Christie were, at the date of the filing of the bill, the sole trustees, and recognized as such by the congregation.

In the year 1865, the congregation considered it desirable that the Reverend William Legg, who had for more than twenty years officiated as their sole pastor, should have some assistance in his duties, and that another minister should be appointed to assist, and act with him. In the following year, Thomas Barcham, one of the plaintiffs, who was then acting deacon of the chapel, on behalf of the congregation, and in accordance with a resolution which had been passed by them, invited the defendant, Mr. Gordon, who was a candidate for the co-pastorate, to become co-pastor with Mr. Legg. Mr. Gordon shortly afterwards accepted such invitation, and entered upon his duties. No arrangement was made with Mr. Gordon as to the duration of his co-pastorate.

About a year after the appointment, a portion of the congregation became dissatisfied with Mr. Gordon, and two deacons who were then in office requested him to resign, assigning for their request the eight following reasons:—

1st. That his sermons were too argumentative, containing trains of reasoning which the people could not carry away with them.

2nd. The sermons were above the level of the great mass of the people, not being sufficiently simple.

3rd. They were too Arminian in doctrine.

4th. They set up too high a standard of Christian life, not taking sufficient account of the influences of trials, &c.

5th. There was a deficiency of unction, Gospel power, and Christian experience.

6th. The motives from which Christians were

exhorted to act were not those of Christian love, but of dry, rigid duty.

7th. The work of the Spirit was not sufficiently dwelt upon.

8th. In some of the sermons there was nothing said to unconverted sinners.

A want of harmony between Mr. Gordon and Mr. Legg, led to great unpleasantness, and steps were taken to ascertain the feeling of the congregation on the subject of the dismissal of Mr. Gordon from his office. Accordingly, on the 8th September, 1868, a meeting of the congregation was duly convened, with full notice to Mr. Gordon.

The congregation consisted of 212 persons, a majority of whom, consisting of 116, were present at the meeting. A resolution was passed dismissing Mr. Gordon from his office; the resolution was carried by 115 votes, all the persons present voting in favour of it, with the exception of one, who remained neutral. Notice of the resolution, and notice not to continue to officiate as co-pastor of the congregation, were served upon Mr. Gordon, but he disregarded them, and continued to officiate as before. He also appointed the defendant Pike to receive the pew-rents arising from the chapel, and Pike accepted such appointment, and it was alleged that he had received certain of such rents accordingly.

Mr. Gordon and his supporters, who had protested against the regularity of the meeting, and had not attended it, held meetings of their own, at which resolutions were passed in Mr. Gordon's favour. It was alleged that the conduct of Mr. Gordon, by calling irregular meetings of his partisans among the congregation, and professing them to be of equal authority with the church meetings, and by holding communion service for his own friends at a different hour to established usage, promoted dissension in the congregation, and that his conduct before referred to was very injurious to and brought much scandal upon the church and congregation, and had then already diminished the revenues arising from the pew-rents.

It was admitted that Independents universally hold as fundamental principles that each congregation of persons in church-fellowship, assembling at a particular chapel with their pastor, constituted a church complete in itself, independently of all other congregations of persons professing the same belief and that mere seat-holders, who were not in communion with the church, were not considered to be in church fellowship, or entitled to vote as members of such congregation; and that (in the absence of any special usage, rules, or agreement to the contrary) the power of electing their minister resided entirely with such first-mentioned congregation. The bill alleged that it was the well established usage among Independents, that each congregation might at any time at their discretion dismiss their pastor from his office, and that in the absence of any special circumstances the will of the congregation was ascertained and such power exercised by a vote of the majority of the members. It was admitted that in the present instance no special rules or usage had at any time been adopted by the congregation, but Mr. Gordon contended it was a fundamental principle