

chosen by the Church members residing at these places, and in the year 1847 James Clements of Liverpool, Geo. McLeod of Herring Cove, Wm. R. Freeman of Milton, and Samuel Kinney, were the Deacons.

The management of the affairs of the Church belong exclusively to the male communicants, who are called members of the Church. Of this Church, from the time he assumed the charge of it, until the end of the year 1846, the Complainant continued to be the Pastor; respected by his people; diligent in his office; of irreproachable character; the father of a large family of fourteen children; the husband of an affectionate wife; the Mrs. Melvin mentioned by the Testator. How his pastoral relation to this Church was contracted, how long it was to continue, or in what manner, or by whom it might be dissolved, is not proved. No verbal or written contract was entered into with him at any time during the above period, nor does it very distinctly appear in what manner his income was raised; but I gather from the evidence that it was by the voluntary contributions of the members of the Church and congregation annually subscribed.

To the yearly amount of those subscriptions, after Goreham's death, the interest on the £700 (less that portion of it required for the repairs of the meeting house and Minister's house in Liverpool), was probably added.

Goreham's devise, whether intended primarily for the Church, or primarily for the Complainant, operating in fact as a diminution the of yearly contributions. The Defendants are the Trustees under the devise of the £700, and they paid the annual produce of it, (less the amount required for the repairs above mentioned), to the Complainant, until the end of the year 1847. Since then they have withheld it from him, alleging that he has ceased to have interest therein. To enforce the payment of it is one of the principal objects of this suit.

The prayer of the bill is as follows:

"That your orator may, by the decree of this Court, be declared the Pastor of the said Congregational Church, and as such Pastor entitled to all the rights, privileges, and immunities thereof, and also, to all the benefits designed for said Pastor by the said will of the said James Goreham.

And that an account may be taken of the arrears of the said annuity, since the last payment thereof to your orator; and also, an account of the monies expended by the said Trustees, or any of them, in or about the repairs of the said Congregational Meeting House at Liverpool; and also, the said dwelling house; and also, what sum remains to

be expended thereon, in the hands of the Trustees.

And that the said sum of seven hundred pounds may be decreed to be invested by the said Trustees, upon some permanent and safe security.

And that the said Defendants may be decreed to pay to your orator the arrears that may, upon such account being taken, be found to be due to your orator; and also, the same, from time to time, as it shall hereafter become due and payable.

And that such directions may be given, as regards the investment of the said sum of seven hundred pounds, under the order of this Court, as will ensure the punctual payment of the said annuity to your orator, and his successor in office hereafter.

And that the said Defendants may be decreed to pay to your orator all the costs sustained by him in the premises and incurred in this suit, by reason of the default of the said Defendants.

And that your orator may have such other and further relief, in the premises to which he may be deemed entitled, to the same extent as if particularly prayed for, as to your Excellency shall seem meet and agreeable to equity and shall be good conscience."

It appears that the Complainant was a widower in the early part of 1847, for in that year he married his present wife, who is the sister of Freeman Tupper, the sister-in-law of Henry Payzant, and the mother of Jacob Whinnan, three of the Defendants; none of whom are members of the Church.

In the year 1847, (it is not distinctly stated when, but I think it must have been about July) the Complainant left Liverpool on a missionary tour, from which he did not return until Saturday the 9th of October. During his absence, his wife originated and propagated reports injurious to his moral character.

What the charge made by her was, is not specified, but it must have been that of incontinence. During his absence, also, other rumors were in circulation. Some of the witnesses say that they had been in circulation before he left on his tour, but that none, such were in existence before the end of the year 1846, is clear. These rumors related principally to his being deficient in discipline and unsound in doctrine. It was said that his teaching leaned towards Universalism and that he had circulated Universalist tracts.

During his absence, circumstances occurred which resulted in a meeting of a number of members of the church, immediately after his return; and, as these circumstances have an important bearing upon the case, I will examine them at large,

About twelve months before this period