

TO WHOM IT MAY CONCERN.

The following petition, signed by a number of the citizens of Lamoni and vicinity, was placed in our hands some days since:—

“TO THE FIRST PRESIDENCY OF THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, GREETING:—

“We believe that in the Church of God exact justice should be accorded to every member; and that in the case of E. C. Mayhew vs. David Dancer, and the Lamoni branch vs. E. C. Mayhew, if as has been represented to us, we believe a great injustice has been done by the church, which tends to destroy our confidence, and thus weakening instead of strengthening our faith; and that we cannot see where any injustice can possibly accrue to either party or the Church, from a fair investigation of the matter.

“Therefore, we, the undersigned citizens, respectfully ask that the case be heard and settled on its merits.”

In answer to the above petition the First Presidency respectfully submits the following facts, derived from documents furnished us by E. C. Mayhew, to wit:—

It appears in evidence before us, that in the year 1882 E. C. Mayhew engaged in mercantile business in Lamoni, on small capital, was soon sorely pressed by his creditors, and prevailed upon David Dancer to come to his assistance under the following arrangement:—

“Article of agreement made and entered into on this the 22d day of March, 1883, between David Dancer of the first part, and E. C. Mayhew of the second part, witnesseth in the manner following: The party of the first part, for and in consideration of the stock of goods, consisting of dry goods, groceries, queensware, glassware, boots, shoes, hats, caps, etc., heretofore owned by the said party of the second part, and valued at the sum of twenty-five hundred and twenty-five dollars, the receipt whereof is hereby acknowledged, does hereby agree with the party of the second part to pay all indebtedness of the party of the second part, which was made for the purchase, either directly or indirectly, of said stock of goods, to the full amount of said stock of goods, less five per cent discount on the same, and allow the party of the second part credit for any balance over and above said indebtedness; and it is further agreed that the party of the first part is to furnish means to carry on such business as may be mutually agreed upon; and the party of the first part is to receive ten per cent interest per annum on all means so invested, and goods for his own use at cost, and all other profits to belong to the party of the second part; said party of the second part to pay the insurance on the property and goods used in said business.

“Witness our hands this 22d day of March, 1883, at Lamoni, Iowa.

“DAVID DANCER,

“E. C. MAYHEW.”

“Duly acknowledged before

“ASA S. COCHRAN, Notary Public.”

To further secure David Dancer, E. C. Mayhew gave him a deed of lots 1 and 2 in block 14, in the village of Lamoni, Iowa.

Not long after the above agreement was entered into, David Dancer became dissatisfied with the condition and conduct of the business, and at length an arbitration covering all matters involved was mutually agreed upon by and between David Dancer and E. C. Mayhew, with the express stipulation that the decision rendered in the case should be final. The trial took place September 19th, 1883, with the following results:—

“We, the arbitrators between David Dancer and E. C. Mayhew, before Robert Lyle, Esq., after due deliberation and comparing figures, render and award as follows:—

“1st. That E. C. Mayhew have and receive from David Dancer the sum of \$34.47.

“2d. That David Dancer return or pay to E. C. Mayhew for eight grocery chests now in possession of said David Dancer, as may be mutually agreed upon by the parties.

“3d. David Dancer deed back to E. C. Mayhew lots No. 1 and 2, in block 14, in the village of Lamoni.

“4th. And David Dancer to pay the costs of arbitration. Costs \$40.90.

“ASA S. COCHRAN,

“C. W. HAMMER,

“W. HUDSON.”

Referring to the above-mentioned trial, E. C. Mayhew, in a communication to us, filed with the Church Secretary and marked (a), says: "I filed an objection to the confirmation of the award;" and he then claims that his friends advised him to withdraw it. Nevertheless it appears, as he says, "that Judge Harvey and others had ruled that no Judge could go behind a decree of Arbitration and an agreement that such award shall be the final end of the matter;" also that "Judge Cheney issued the following decree, as he was in duty bound to do, to wit:—"

"That said David Dancer convey to E. C. Mayhew, free from all levies and encumbrances, said lots 1 and 2, block 14, in the town of Lamoni, Iowa; that the conveyance be made within ten days from this date, to wit, March 26, 1885; that upon the failure of David Dancer to make the said conveyance of said lots, free from all levies and encumbrances, of whatever kind, that E. J. Sankey, clerk of the Court, be and is hereby appointed a commissioner to make said conveyance of said lots to E. C. Mayhew, and that the said lots be conveyed by the said Sankey, commissioner, at once upon the expiration of the said ten days aforesaid, that execution issue.

"JOHN CHENEY, J. C. C."

It further appears that the firm of Kendall and Emery, with E. C. Mayhew as intervener, had entered suit against David Dancer, on a claim unknown to David Dancer and not provided for by E. C. Mayhew at the time of the signing of the "agreement," March 22d, 1883, for goods sold by them to E. C. Mayhew, and had obtained a judgment for \$737.25 and costs; and that the District Court, at Leon, had rendered on the said claim a like judgment against E. C. Mayhew in favor of David Dancer. Of this matter Judge Harvey in his findings said:—

"Fifth. I find from the evidence, that before entering into said contract [March 22d, 1883], that the said Mayhew misrepresented his true indebtedness, to said Dancer; that he represented to said Dancer that his indebtedness was about \$2,200 or \$2,300. But on this branch of the case I find that prior to entering into said contract said Dancer examined the books of said Mayhew and might with reasonable diligence have ascertained the true amount of said indebtedness; and I further find that on the day after the invoice was taken a complete list of said Mayhew's indebtedness (with perhaps two exceptions) was made out by E. H. Gurley and the per cent that the goods would pay on the indebtedness was figured out by said E. H. Gurley."

It further appears, that an injunction suit followed against the aforementioned "decree" of Judge Cheney, in order to secure from E. C. Mayhew the payment of the Kendall and Emery claim; and then came, as E. C. Mayhew says, "suit after suit till the desired object was accomplished, that is, to set aside the decree [of Judge Cheney] of the arbitration, that Judge Harvey's decree might have force and effect." And thus the real estate in question was made liable, by decree of the District Court, to satisfy the judgment obtained by David Dancer against E. C. Mayhew on the said Kendall and Emery claim.

That the said Kendall and Emery claim was not known specifically to David Dancer at the time of, nor its payment provided for under the "Agreement," of March 22d, 1883, seems clear to us from still further evidence placed in our hands by E. C. Mayhew in his various communications to us. It is also clear to us that it was that said claim that led up to his loss of his real estate by decree of the District Court, by virtue of which the aforementioned real estate of E. C. Mayhew and his heirs finally passed into the hands of David Dancer.

In the foregoing presentation is seen what final disposition was made by the Civil Courts of the matters in dispute between E. C. Mayhew and David Dancer. From these proceedings, and findings, and decisions, E. C. Mayhew appeals for redress to the courts

of the church, and claims to have filed the following charges against David Dancer, in the Bishop's Court, of which he says:—

"The charges in the Bishop's Court from which appeal is taken to the High Council was, unchristianlike conduct—

"1. By defrauding me out of my property, consisting of real estate valued at \$1,582.66, and goods and money valued at \$1,400.

"2. That in not carrying out the provisions of a plain written contract he subjected me to great loss and expense;

"3. That he pretended to go on with the contract, while he by fraud and misrepresentation, with deceit and intrigue sought to render the contract null and void,

"4. That he took from me a stock of goods valued at \$4,044, without any right in law or fact, and against my will and consent, and in my absence, and represented that the stock of goods amounted to only about \$2,827.82.

"5. That he caused charges to be brought against me before the Lamoni branch, the sole object being to injure my reputation and standing in the church, to prejudice my claim against him, and to excuse himself for his treatment of me as herein set forth.

"6. That he has taken possession of my property, etc., etc.

"Now this is the case appealed to the High Council, and it has never been before the courts of the land for adjudication."

Now, the First Presidency has no official knowledge of the above-mentioned "case," for the reason that no Bishop's Court has reported it, or anything like it, to us, as they ought to have done had any such case been tried before it and an appeal been taken therefrom to the High Council. And besides this, the said "case" and purported "appeal" is in fact a series of charges against David Dancer in respect to business matters already disposed of by the civil courts of the land and is out of the jurisdiction of the courts of the church. The said appeal is, in essence and in substance, an appeal from the methods, and findings, and decisions of the civil courts to the High Council of the Church and is therefore without the authority of the law of the church and not within the jurisdiction of the High Council.

It further appears that the Lamoni Branch, by its officers, preferred charges against E. C. Mayhew as follows:—

"LAMONI, April 23d, 1885.

"Bro. E. C. Mayhew is charged with unchristianlike conduct. Specifications,—misrepresentation with intent to defraud, as shown in his testimony in the case of Kendall and Emery, and in other cases.

"J. W. GILLEN, President,
"ASA S. COCHRAN, Priest."

On the trial of the above case, May 6th, 1885, the Court of Elders found this verdict:—

"We, the Court of Elders in the case of the Lamoni Branch vs. E. C. Mayhew, do report as follows: That we have heard the evidence on both sides, and do find and decide that the charges against Bro. Mayhew, of unchristian conduct, has been sustained in so far that he is found by us to have been guilty of misrepresentation and prevarication. We leave the matter with the branch for it to decide as to the penalty, as justice and wisdom may direct.

"JOS. R. LAMBERT, Pres.,

"E. BANTA,

"H. A. STEBBINS."

E. C. Mayhew appealed from the above decision to the Bishop's Court, the latter rendering, August 19th, 1885, the following report as presented to us by E. C. Mayhew:—

"1. It is not made to appear that the said arbitrators failed to render a just and true report of the matters in dispute.

"2. We find that the said Dancer, after having entered into the said contract of March, 1883, he ascertained that the said Mayhew was financially involved to a greater extent than he had been led to believe at the time of the signing of the contract.

“3. That he had placed himself in a position wherein he was likely to lose considerable means.

“4. The Court, however, fails to discover, from the evidence, that the steps so taken by the said Dancer, were not both necessary and justifiable.

“5. Had the sales and proceeds been different and the business had proved a success instead of a failure, as is fully shown was the case by the cash book.

“6. That Bro. E. C. Mayhew, and Bro. David Dancer conform to the settlement effected by the Arbitration as shown in their report, and as the same has been modified by the order of the Civil Courts.”

In another place is the following which purports to be a part and portion of the Bishop's Court:—

“4. It is therefore considered and is adjudged by the Court in as far as it found the said Mayhew guilty be reversed and the case be remanded back for dismissal.

“G. A. BLAKESLEE,
“E. L. KELLEY.”

A minority report of the Court on the above case was filed in these words:—

“I cannot concur in the decision of the majority of said Court, and do recommend that the decision of the former Court [Elder's Court] be sustained.
“Signed,
E. BANTA.”

October 3d, 1885, the findings and decision of the Bishop's Court were presented and read to the Lamoni Branch. The adoption of the minority report was moved and carried, and then the following:—

“Resolved that inasmuch as the Elders' Court found E. C. Mayhew guilty of misrepresentation and prevarication, that he be given twenty days to make acknowledgment, and unless he does so make acknowledgment, he shall be disfellowshipped until such acknowledgment is made.”

E. C. Mayhew failed to make the required acknowledgments, and on October 24th inst., gave notice that he would appeal the case to the High Council. Since then he has made three several attempts to secure through the First Presidency an appeal of his case to the High Council, and has been as often refused for reasons set forth at length by the Presidency in official letters addressed to him personally.

The First Presidency refuses to order the case above referred to before the High Council on appeal, for the following, among other reasons:—

1. It is an attempt to have the courts of the church judge matters already disposed of by the civil courts. This is admitted by E. C. Mayhew in his application to us for an appeal to the High Council, where he says it is “my effort to get a decree of the church for a return of my property.”

2. From evidence in the documents presented to us by E. C. Mayhew, in respect to the methods of procedure, and the findings, and decisions of the civil courts, we fail to see that justice has been defeated or equity perverted as against him.

3. From the said evidence we fail to see that injustice has been done E. C. Mayhew by the courts of the church, even if it could be shown that, technically, some of their proceedings were irregular and not in good form.

4. And, finally, from the fact that the material facts averred, as above recited, are substantially the same as appeared before the Elders' and Bishop's Courts and the courts of the land, no new evidence being alleged or discovered.

JOSEPH SMITH, }
W. W. BLAIR, } First Presidency.

Done at LAMONI, Iowa, November 8, 1894.