

**TRIAL AND DECISION
OF
SANDLICK CHURCH PROPERTY**

**PUBLISHED BY
ELDER ROBERT BLAIR**

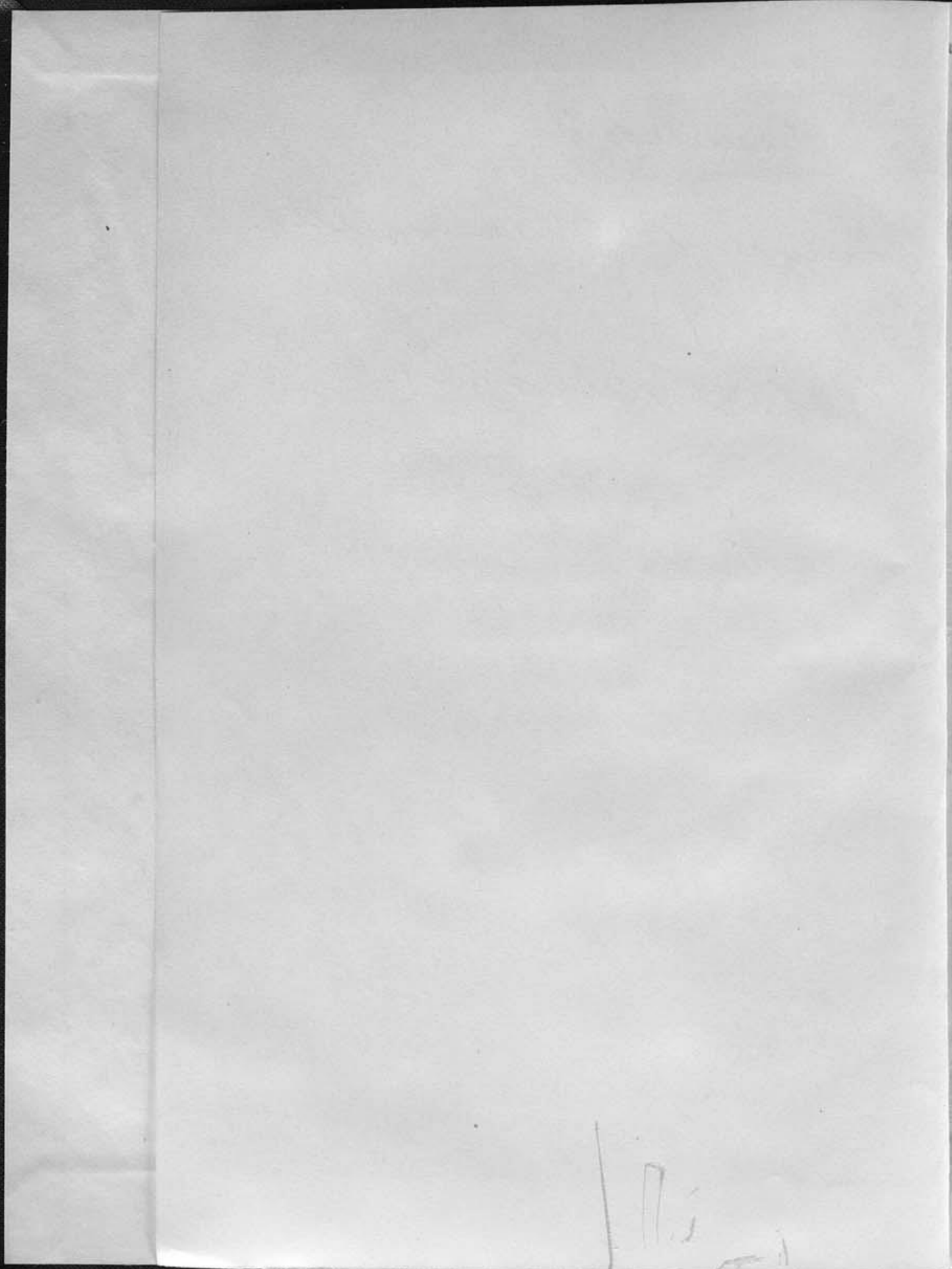


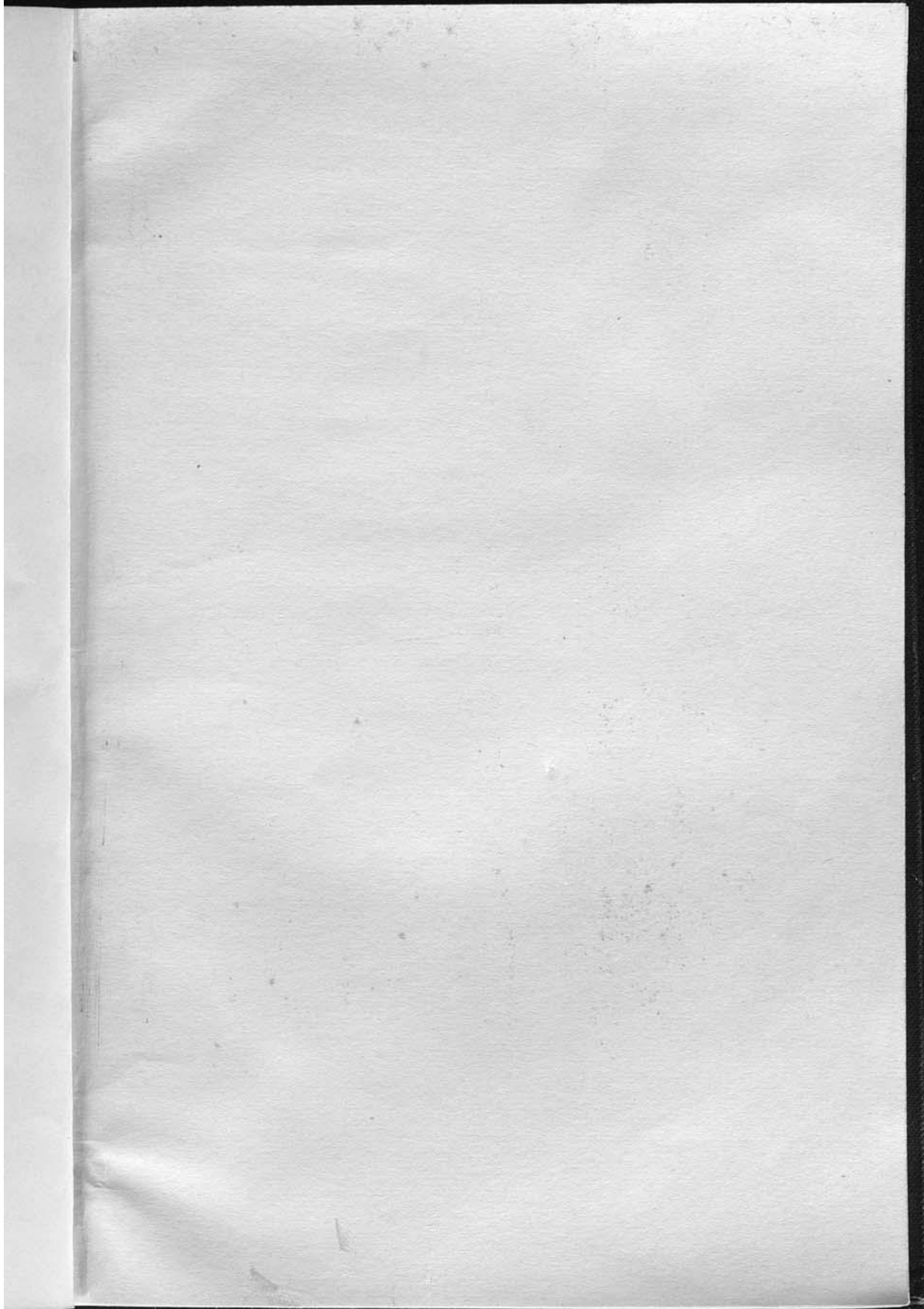
Presented To

Samuel M Wilson, Atty.

by

Robert Blair, Sr.





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PREFACE

The purpose of the publishing of this book is to give to its readers a more elaborate knowledge of the difference between The Old School or Primitive Baptist and the Old Regulars, as they denominate themselves.

The reader will find, by careful reading of this book, that all of the pleadings in the case of Joe Hall et al. against James Hall, et al., including the depositions of each side and the judgment of the Letcher Circuit Court, and the opinion of the Court of Appeals, as well as the briefs on each side.

This was a suit over the rights of the parties to the Old Sandlick Church House, as to who was the rightful owner and entitled to the use of same.

Robert Blair, the publisher of this book, was one of the defendants in this case and gave his deposition therein, in which he explains the Doctrine of Election and Predestination, by the Primitive Baptist. He has been a member of the Primitive Baptist Church ever since the year 1879, and a minister therein for 35 years, and is now the moderator of the Sandlick Primitive Baptist Association.

The proceedings as given in this book is a complete record, as certified by the Clerk of the Letcher Circuit Court. The reader will find some few errors made by the stenographer in transcribing the notes, some times the word "plaintiff" is used where it should be "defendant", and vice versa.

ARTICLES OF FAITH OF THE SANDLICK CHURCH

Adopted by the Sandlick Association in 1883, and by the Sandlick Church in the year 1885.

1. We believe in one true and living God— Father, Son and Holy Ghost—these three in one..
2. We believe that the Scriptures of the Old and New Testaments are the written word of God and the only rule of faith and practice.
3. We believe in the doctrine of election by grace.
4. We believe in the doctrine of original sin, and in man's impotency to recover himself from the fallen state he is in, by nature, by his own free-will and ability.
5. We believe that sinners are called, converted, regenerated and sanctified by the Holy Spirit, and all who are thus regenerated and born again by the spirit of God shall never fall finally away.
6. We believe that sinners are justified in the sight of God, only by the imputed righteousness of Jesus Christ.
7. We believe that the baptism, the Lord's Supper and feet-washing are ordinances of Jesus Christ and that true believers are the only proper subjects of these ordinances, and we believe the only true mode of baptism is by immersion.
8. We believe in the resurrection of the dead and a general judgment, and that the joys of the righteous and the punishment of the wicked will be eternal.
9. We believe that no minister has a right to administer the ordinance except such as are called and come under the imposition of hands by the presbytery.

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AUTOBIOGRAPHY OF ROBERT BLAIR

I was born February the 9th, 1857; raised by poor parents, who had ten other children, two of whom were younger than I, this afforded me very little chance to acquire an education, as we had to labor for our support, and the common school terms being so short and the distance from our home to school being near five miles. I grew up to manhood and took up the blacksmith trade, and followed it for about twelve years, during the time I began to attend school and study law, and was admitted to the bar to practice in May, 18—. I was married to Rachel Fairchild on the 13th day of April, 1878, and in the following spring, the Lord as I hope, revealed to me His spirit, and when this was done, I could see by His spirit, that I was corrupt, lost and an undone sinner, and my portion was with the Devil and his angels, in the lake of fire and brimstone, and everything that my eyes beheld seemed to witness my condemnation, and to say the lake is good enough for you. But alas! To my surprise, when I had come to the conclusion, and verily believed that I had the dreaded disease,—Consumption, (of which many of my relatives had died,) and I could not see any way of escape, but must shortly leave this world; on the — day of July, 18—, when one of my cousins had died with the disease above mentioned, and I went to the funeral with the load of sin and corruption upon me, weighting me down to Hell, and for this reason, I could not stay at the house where the corpse was, so I thought I would go upon the Graveyard Hill, but when I got up there, the burden was so great that I believed that it was natural death preying upon me, (“I will lead them in a way that they know not, and in paths therein that they have not known.”) and the very countenance of the friends who were digging the grave, the grave, and everything around me were still witnessing my condemnation, so something seemed to say to me, “Go to yon shade tree,” (which stood about thirty yards from the grave,) so I went and sat down under it, and there bid my dear wife and child (as I only had one child at that time,) father, mother, brothers and sisters, and all things in this world, Farewell, verily believing in a very few moments that I would be dead, and condemned to the lake that burns with fire and brimstone, and there seemed to come a bounding in my heart, and a still voice which said, “Arise and go yonder,”—(meaning the grave.) And the first thing I knew, I was upon my feet, going, and when I came to the grave, there seemed to be no bottom to it, to me the earth seemed to open her mouth to receive me for the lake of fire and brimstone, and the last thing I remembered was as I turned to go back toward the bush again, (which was in a western direction from the grave,) I heard a voice behind me in the midway of the air, which said, “Behold the Lamb of God, that taketh away the sin of the world.” This turned me right-about-face, and when I was turned I saw in the east, Christ with a cloud of witnesses with him, coming in the direction of where I was, this was the most beautiful sight that I ever beheld. Ah, how I wanted to embrace him in my arms, but alas, He vanished out of my sight, and gone was all of my guilt and fear, the load of corruption that I had so long been carrying, was taken away from me, and I was perfectly cured of my dreaded disease of consumption, that I thought I was dying with. Now I

was a new creature in a new world, and was rejoicing and praising the great name of Jesus our Savior. And while I was thus employed, the spirit directed me to the Primitive Baptist Church at Sandlick, in Letcher County, Kentucky, the history of which we will describe more fully in the following pages. On the — day of — 1879, as I hoped, the Lord added me to the church, I was baptized the following day by Eld. B. E. Caudill, (who was known as Colonel B. E. Caudill,) and who then lived in the State of North Carolina, but was visiting his people in Letcher County, Kentucky. When I was baptized, I thought all of my troubles were done, and I would have no more of them. But alas! This was just the beginning of trouble, for the burden of the Word of the Lord fell upon me, and I was tossed to and fro, and at times would find myself preaching as though I was in the presence of a congregation, that is, my mind would be exercised, yet, I knew I could not preach the Gospel of Jesus Christ, for I was too ignorant, and had no delivery of speech, and I determined never to try such a thing. So the burden grew heavier, until one day when I was in the field plowing, preparing to plant corn, when I was carried out in the spirit, and I heard a noise and looked. And Behold! I saw the son of man as I saw him on the Graveyard Hill, when I was healed of that dreaded disease, except the angels and witnesses that were with him had trumpets, and they came to where I was and put one to my mouth, and it made the sweetest music, just like all the rest that was with him, and when I came to myself, so as to realize what was going on about me, the little daughter of William Greene was down at the lower side of the field calling for me to come to dinner, and the mule I was plowing was standing out in the field where I suppose I had left him, and I was outside of the field, up in the woods. How, and by what means I got there has always been a mystery to me.

Shortly after this time I decided that I would make the effort to preach in public, and about this time I dreamed that I was traveling, and I came to a bottom of timber, all full grown, and in that bottom the foundation of a new house was laid, and the logs for the house fresh hewn, were scattered over the mountains. When I approached the foundation of the new house, I discovered that the path I was traveling went through the house, and I pursued my journey and when I got into the foundation of same, the devil got after me, and I worried with him for some time when at last I thought of the Lord, and when I could think of the Lord, the devil would vanish away. I dreamed this dream seven nights in succession, and each time the house was some nearer completed, until the last night I came to see it, it was finished, all but the chimney, and it was built up to the coping on the outside of the house, and the path went over the top of the house, and as I stepped over the top of the chimney, I thought this is one time I will get through without the devil getting after me. As this thought came to me, the devil reached up out of the chimney, as I brought my last foot over the top of it, he caught me by the foot and held me for some time. I was worrying with him when the thought came to me "Why don't you think of the Lord, like you always did before." When I thus thought, he was gone and I awoke. The last time I dreamed this was on Friday night before the first Saturday in the month of — 18—. 18—.

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BIOGRAPHY OF JAMES M. HALL

Eld. James Monroe Hall was born January 22, 1855, at Viper, Kentucky, where he resided all his life. He was united in matrimony with Miss Louemma Jane Hill, September 26, 1875. He united with the Primitive Baptist Church about the year 1877, shortly afterwards he was ordained to the full functions of the Gospel ministry. He was known to be a great preacher of the Primitive Baptist doctrine and was highly esteemed among them.

He was of a kind congenial spirit, which gained for him the friendship of many who knew him.

He was elected as a member of the lower House of the Legislature in the year 1897.

He took an active hand in educational and all movements for good. After the death of his first wife he was married to Miss Martha Godsey.

He was stricken with Paralysis on August 31, 1922, and passed his reward September the 8th, 1922. (The voice of Jesus) "Well done, thou good and faithful servant." His last words were, "Over there is life everlasting, and I am going up there."

The funeral services were conducted by Elders Thomas Kelly and J. H. Hudson, both of whom had been constant companions, and whom he greatly admired, on the following day.

His first wife was a consistent christian woman, a member of the Methodist Church, and his last wife, was a member of the Primitive Baptist Church.

He belonged to the Sandlick Association, and which he served in the capacity of clerk for a number of years, and later chosen moderator of the Association in which capacity he was serving at the time of his death. He was also serving the Sandlick Church as moderator at the time of the filing of this long and wearisome case, and this is the reason why he was made one of the defendants in this action.

CREDENTIALS OF L. F. ADKINS

Know all men by these presents, that on the 15th day of August, 1896, the Regular Primitive Baptist Church, called Sandlick, situated in Letcher County, Kentucky, met in council with the presbytery for the purpose of ordaining Brother Lewis F. Adkins to the full functions of the gospel ministry, and after due deliberation proceeded to ordain him by prayer and laying on of hands by the Presbytery. Now, therefore, be it known that Elder Adkins is a brother in good standing with us and we recommend him to the Regular Primitive Baptist everywhere.

The Church, the Presbytery and the above named Elder hold the doctrine of special atonement by Jesus Christ for the elect of God, who are predestinated unto the adoption of children by Jesus Christ to himself in time, and thenceforth kept by the power of God unto glory.

Elder Joseph Hall,
Elder S. C. Caudill,
Elder J. A. Craft,
Joseph Blair,
Jesse Adams,
Deacons.

Presbytery

The above Credentials of Elder Lewis Adkins, is published for the purpose of showing the doctrine that Elder S. C. Caudill was identified with, even after the division in May, 1896. Same being a true copy of the record made by him.

Brief sketch of the history of the separation of the Old Regu-

lar Baptists from the Primitive Baptists in this section of the country.

It is necessary to give here a short sketch or history of the separation of the Old Regular Baptists from the Primitive Baptists. In the year 1893, the Sandlick Association was in correspondence with the New Salem Association, as well as the Three Forks of Powells River Association of Primitive Baptist, and the Mates Creek Association and the Union Association. These associations were in correspondence with each other, and the Three Forks of Powells River Association was in correspondence with the Powells Valley Association, the Washington Association, the Mates Creek Association, the Union Association and the Stony Creek Association. When the New Salem Association met in the year 1893, Elder Thomas Hopkins, of that Association preached the introductory sermon, and preached the doctrine of Arminianism, and at the close of the discourse, declared that was the doctrine of the New Salem Association, and all that believed that doctrine, preached by him, they were welcome to a seat in the New Salem Association, and those who did not believe it were not welcome to a seat in the association. Then the messengers retired to the house and after holding a conversation with the messengers from the various associations to-wit: Elder S. C. Caudill, and Robert Blair, from the Sandlick Association; Elder D. H. Riner and others from the Three Forks of Powells River Association; and the messengers from the Mates Creek and Union Associations, and the several messengers from the churches of the New Salem, who refused to be seated with it because of the declaration made by Elder Hopkins, all of the corresponding Associations withheld their correspondence and returned home except Calvin Swindle, who was a member of the Three Forks of Powells River Association, took a seat with the New Salem Association, and preached in the stand on Sunday, as their records show. Then in August 1894 the Three Forks of Powells River Association met with the church at Gladeville, Virginia, and when the house was called to order by the moderator, and the letters were handed in, as was the custom, when the clerk read the letter presented by the Little Zion Church, of which Eld. Calvin Swindle was a member, and was a messenger to the association, there was an objection to the letter from the church, in that she had deviated from the orthodox principles of the Primitive Baptist by Elder Swindle taking a seat in the New Salem Association, as a transient minister, and when called upon about it, he denied taking a seat with them as a transient minister, and preaching on their stand. After his denial, Elder Robert Blair and Wilson Church presented one minute each of the New Salem Association, showing that he was received as a transient minister. Then after some discussion between Elder Calvin Swindle and James Walton, a messenger of Powells Valley Association, the association then by a move and second, withdrew from the Little

Zion Church until she had set herself in order.

On Friday before the third Saturday in September, the Union Association convened with the Mt. Pleasant Church in Dickenson County, Virginia, and Elder John A. Craft, the present moderator of the Association being absent, it was agreed that Joe Hall, the Clerk of the Association, was the one to call the house to order and read the letters with the view of seating the messengers, and after the letters had all been handed in, the clerk having to make up all the records, requested Elder Robert Blair to assist him in the reading of the letters, which he did, and the reading of the letters went on smoothly without any objection until the letter from the Union Church was read, which contained declarations of non-fellowship for certain doctrines which were in harmony with the doctrine of the Primitive Baptist, and there was an objection to receiving the letter and messengers because same showed on its face a radical departure from the orthodox principles laid down in the Articles of Faith, and the vote being taken, the letter and messengers were rejected and left the house, and some of the churches asked for their letters back and left the house. Then the association was organized by electing Elder Joe Hall moderator and J. L. Holbrook clerk, and the business of the association was carried on in the usual manner.

This sketch of history is given for the purpose that the reader may have a full knowledge that the division of the Old Regular Baptist from the Primitive Baptist had nothing to do with the division of the Sandlick Church, and to show that after the division in the Sandlick Church, that the parties in the Sandlick Church had made reconciliation, and Elder S. C. Caudill was moderator of the Sandlick Church at the time of his death, and to show how they undertook to slander Elder C. C. Caudill after his death by instituting this suit to intimidate the members thereof, and to destroy the old Sandlick Primitive Baptist Church.

It was not the property of the Church that caused the defendants to withstand the plaintiffs, but the cause of Christ, and the integrity of the late S. C. Caudill.

We hope the reader will read this book prayerfully, and then decide for himself.

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LETCHER CIRCUIT COURT
IN EQUITY

Joe Hall, W. G. Caudill, Sabina Caudill, William Ramey, Polly Ann Craft, Who Sue for Themselves and All Members of Sandlick Church, of the Regular Primitive Baptist Faith..... PLAINTIFFS

vs. [PETITION IN EQUITY

James M. Hall, Robert Blair, Peter Adkins, S. G. Fairchild, David Sergent and Joseph Fairchild..... DEFENDANTS

The Plaintiffs state that on the — day of —, 18—, certain persons whose names the Plaintiffs cannot now state, for the reasons hereinafter mentioned, met and assembled themselves together in one body for the purpose of establishing a church, which they called and denominated the Sandlick Church. This name was given to the Church for the purpose of identifying it and the name was so selected because the place they met to worship was at or near the mouth of Sandlick Creek, on the North Fork of the Kentucky River, which is now in Letcher County, Kentucky, and that at said meeting, the persons who had met duly made and adopted an Article of Faith, which article of faith was reduced to writing and expressed clearly the religious views of said meeting, and this article of faith was what the Plaintiffs know and call as the "Old Regular Primitive Baptist Faith," and that after said article of faith was duly adopted and signed by the proper parties, they thereupon proceeded to and did elect a pastor of said Church, whose name the Plaintiffs are now unable to give or the reasons hereinafter stated, and that said organization immediately began to and did hold regular meetings at stated times and at the place hereinbefore mentioned, and thereby became a fixed and permanent organization, for the purpose of preaching the gospel according to the articles of faith adopted by them.

Plaintiffs state that on the — day of —, 18—, one John A. Caudill, who was a member of and believer of the said Church, donated to the said Sandlick Church the following described lot of land for the purpose of erecting thereon a suitable church house, at which place the said Church as a body could meet and hold its regular meetings. Said lot of land is situated in Letcher County, Kentucky, near the mouth of Sandlick Creek and is more particularly bounded and described as follows, to-wit:

Beginning at Murphys Branch in the edge of the road leading down the river from the town of Whitesburg, thence down the road N 77 W 8 poles to a stake with the edge of said road; thence N 18 E 15 poles to a stake; thence East four poles to a stake in the Murphy Branch; thence with said branch S 18 E 4 poles to a stake in said branch; thence S 2½ W 8 poles to a stake in said branch; thence S 22 W 4 poles and 12 links to the beginning.

Plaintiffs say that after the said donation and gift of the said boundary of land to the members of the said Sandlick Church, the members thereof proceeded to and did erect a church house, and in which building the said Church then and thereafter hold its reg-

ular church services for a period of years, and that on the 10th day of May, 1873, the said John A. Caudill died without having made any deed to said Church, and that after the death of the said Caudill, by proper orders and proceedings had in the Letcher Circuit Court, one S. R. Adams, as Commissioner of said Court, was directed to and did make and execute a deed to the said boundary of land, given and donated to the said Church by the said John A. Caudill, and that after this deed was executed the said Sandlick Church proceeded to and did build a more commodious building on said lot, and continued to use and occupy and control said building as its designated place of worship for several years thereafter.

Plaintiffs say that on and about the 16th day of May, 1896, and at one of the regular church meetings of the Sandlick Church, held and convened at the church house hereinabove described, the Defendants, Joseph Fairchild, Robert Blair, S. G. Fairchild and one Peter Adkins, absented themselves from the Sandlick Church and left the church house while the business of the Church was being conducted and went to another point and place and organized themselves into what they call and term a body and also named that body the Sandlick Church, and the said S. G. Fairchild being at the time Clerk of the Sandlick Church, took away with him the Church Records, containing the said Article of Faith and the book in which all the members of said Church were enrolled, and all the records and minutes and proceedings of said Church and thereby Plaintiffs and their members, and all the members of said Church, have been and are now deprived of the use and benefit of the records of said Church, and for that reason the Plaintiffs are now unable to state and to set out fully the names of the members of the original Sandlick Church in detail, but here allege that they were numerous and contained a large membership, and that shortly after the taking of said church records by the said S. G. Fairchild, the said Fairchild and his co-defendants herein, obtained without the consent of the Plaintiffs or any of the members of the original Sandlick Church, Plaintiff's said church house and lot hereinbefore described, and that these Plaintiffs understood, believe and charge the taking of said possession by the Defendants was wrongful, without right or authority on the part of said Defendants, and that said Defendants met with other persons, whose names these Plaintiffs cannot now give, and that they now have and hold the possession of said church house and lot and the records of the original Sandlick Church, all of which, are as Plaintiff believes, wrongfully on the part of the Defendants, and without right or authority vested in them and that said Defendants and other persons acting with them, whose names the Plaintiffs cannot now give, now hold the possession of said property and absolutely refuse to permit the Plaintiffs and other members of said Church to use or occupy for all or any church purposes, the said building and lot, and the Plaintiffs and other members of said Church are thereby totally excluded from the use or occupancy of said Church and church property.

The Plaintiffs state that they and the other members of the original Sandlick Church now and have at all times since their membership, have held to, promulgated and believe in said Church as originally established and the Articles of Faith, made and estab-

lished at the time said Church was organized, and that they have at all times held to such faith, and have not parted therefrom and are therefore the legally constituted body of said Sandlick Church and are, as they believe, entitled to the records and proceedings of said Church and the property owned by it.

Plaintiffs say that the Defendants and their followers, who are very few in number, have departed from the original Article of Faith and now, and have at all times since their departure, promulgated and preached and held out to the public an entirely new doctrine, which was not embraced within the original Article of Faith of the Sandlick Church, and having thereby and by their acts, absented themselves from the said Sandlick Church, and that they are not now entitled to use or to occupy the church house, lot or building, or to have in their possession the records of said Church.

Plaintiffs say that by reasons of the acts hereinbefore stated and by reason of the fact that they have not before them the church records of the Sandlick Church, that they are unable to know or to say whether or not there is upon said record any order or proceeding wherein or whereby the said Church had any Trustees in which the title to the land and property vested upon the execution of the deed by S. R. Adams as Commissioner of the Letcher Circuit Court, but that said deed does not mention the name or names of the persons as Trustees of said Church, and therefore they are of the opinion and believe and here charge that said Church does not now have any regularly constituted or appointed Trustees, and therefore they ask that this Court appoint of the same faith and order as the original Sandlick Church, measured as a standard by the Articles of Faith adopted by that Church in the beginning, and that for the purpose of determining this fact, the Defendants be required to produce in open Court the Church be adjudged the absolute possession and control of said records of the original Sandlick Church, and especially the Articles of Faith governing said Church.

The Plaintiffs say that inasmuch as the members of the said Sandlick Church are numerous and their names not definitely and well known to them, they now ask that they be permitted to bring and prosecute this action for and on behalf of all the members of said Sandlick Church.

Wherefore the Plaintiffs pray that this Court immediately appoint three trustees to act for and on behalf of the said Sandlick Church, and that said Trustees or this Court take immediate control of the records of said Sandlick Church and the house and lot hereinbefore described, and direct its management until final hearing of this case, and Plaintiffs and other members of the Sandlick Church Records and the house and lot hereinbefore described, and that they and their successors be adjudged the beneficiaries thereof, and they would ever pray. They pray judgment for their cost and all other proper relief.

R. MONROE FIELDS,

D. D. FIELDS, Counsel for Plaintiffs.

W. G. Caudill says that he is one of the Plaintiffs in the foregoing petition and that the statements contained therein are true.

W. G. CAUDILL.

Subscribed and sworn to before me by W. G. Caudill, this the
6th day of July, 1915. D. I. DAY, J. P.

LETCHER CIRCUIT COURT

W. G. Caudill, Etc. Plaintiffs

[Separate and Joint Answer and Counter Claim of
vs. [Robert Blair, Peter Adkins, S. G. Fairchild and
[David Sexton.

Robert Blair, Etc. Defendants

The Defendants, Robert Blair, Peter Adkins, S. G. Fairchild and David Sexton for their separate and joint answer and counter claim herein comes and not waiving their motion to require the Plaintiffs to make more specific their petition herein as to the doctrine the Defendants are promulgating and preaching that is not contained in the Articles of Faith, but relying and insisting on same, says it is false and untrue and deny that on or about the 16th day of May, 1896, the Defendant or either of them at said time at one of the regular church meetings of the Sandlick Church held and convened at the church house described in Plaintiff's petition, or at any other place or time, absented themselves or either of them left the Sandlick Church House while the business of the Church was being conducted and went to another point or place and organized themselves into what the Defendants called and termed a body, which they called the Sandlick Church, denies that they or either of them organized any body, denies that the Defendant, S. G. Fairchild, took away with him all the records and proceedings of said Church, denies that by the reason of any taking of said record has deprived all or any member of said Church of the use and benefit of the records of said Church.

The Defendants deny that after the taking of the records of the Church by the said S. G. Fairchild, the said Fairchild and his co-defendants obtained without the consent of any of the members of the original Sandlick Church, the house and lot described in Plaintiff's petition herein, denies that said house and lot is the property of the Plaintiffs or either of them, denies that the taking of the possession by the defendants of said house and lot and records were wrongfully, without right or authority on the part of the Defendants or either of them; denies that they or either of them now have and hold the possession of said church house, lot or the records of the original Sandlick Church wrongfully on the part of the Defendants or either of them; denies that they or either of them holds the possession of same without right and authority vested in them; denies that the Defendants and those acting with them now hold possession of said property and absolutely refuse to permit the members of said Church to use or occupy for all or any church purposes the said building or lot; denies that any member of said Church are thereby totally excluded from the use or occupancy of said church house and church property; denies that the Plaintiffs or any one acting with them are members of the original Sandlick Church; denies that the Plaintiffs or either of them are members of the original Church under the original Articles of Faith on which the said Church was constituted and which was adopted by the said Church at the time it was organ-

ized; denies that the Plaintiffs or either of them since their membership in said Church have held to promulgate and believed in the said Church as originally established or the articles of faith made and established at the time said Church was organized; denies that the Plaintiffs or either of them are members of said Church; denies that the Plaintiffs or either of them have at all times held to the faith; denies that they have not departed therefrom; denies that the Plaintiffs or either of them are legally constituted body of the said Sandlick Church; denies that the Plaintiffs or either of them are entitled to the records and proceedings of said Church or property owned by it; denies that the Defendants or either of them or their followers have departed from the Articles of Faith of said Church; denies that the defendants are now or have been at all times since their departure promulgated or preached or held out to the public an entirely new doctrine which was not embraced within the Articles of Faith in said Church; denies that they departed from said articles of said faith as promulgated and adopted by said Church; denies that these defendants or either of them by their acts discented themselves from said Sandlick Church; denies that the Defendants or either of them are not entitled to the use and occupancy of said church house, lot or building, and have in their possession the records of said Church; denies that the said Church did not have Trustees at the time of the execution of said deed by S. R. Adams to said Church; denies the right of the Court to appoint Trustees of said Church; denies the right of the Plaintiff to sue for and on behalf of all the members of said Church or any of them.

PARAGRAPH TWO.

The Defendants for further answer and counter claim herein state that the Defendants, Robert Blair, Rachel Blair, Peter Adkins, Louisa Adkins, Elizabeth Lewis, S. G. Fairchild, Loucinda Banks, David Sexton, John Sexton, John Collins, Parthinia Collins, Mattie Holbrook, Susan Ingram and Gabe Hughes is the legal constituted and the only legal successors of the original Sandlick Church as constituted and established, and they have at all times been subjected to all the by-laws and rules of said Church and have never departed therefrom.

The Defendants further say that on or about the — day of October, 1878, the following named churches, to-wit: Sandlick Church, Colly Creek Church, Oven Fork Church, Big Cowan Cowan Church, Indian Bottom Church, Big Leatherwood Church, Carrs Fork Church, Mallet Fork Church, and other churches which these Defendants can not give at present, but will give if so desired, assembled themselves together for the purpose of organizing themselves into an association, and while then assembled together for said purpose did organize themselves into one body for the sole purpose of perpetuating a union and communion among themselves and other churches and associations of the same faith and order. That on the — day of October, 1883, the said association which was called and recognized as Regular Primitive Baptists, adopted the following Articles of Faith, a copy of same is here referred to and made a part hereof, marked "A" for identity. That on the — day of October, 1883, the Sandlick Association adopted the constitution by which said association was to be governed, a

copy of said constitution is here referred to and same is filled here with and made a part hereof, marked "B" for identity.

The Defendants and each of them further say and charge that the Sandlick Association is an ecclesiastical body, the highest known to or ever subscribed to by the Primitive Baptist, that the same was organized for and is connected with the rules and government of the churches known as Regular Primitive Baptist.

The Defendants for further answer and counter claim herein state that on the — day of October, 1883, the Sandlick Church being a member of the said Sandlick Association, and in order to maintain and perpetuate a union and communion among themselves, and after due deliberation in regular session by a unanimous voice adopted the Articles of Faith that the Sandlick Association had adopted.

The Defendants, and each of them, further say and charge that they and those acting with them have at all times since the adoption of said Articles of Faith and becoming members of said Church have lived up to and have and are now willing to be governed by the rules of said Church and the said Article of Faith adopted by said Church, and the Articles of Faith and Constitution of the Sandlick Association as adopted by it on the — day of October, 1883.

The Defendants for further answer and counter claim, say and charge that on or about the 16th day of May, 1896, there was a division of the members of said Church, that the Plaintiff, Sabrina Caudill, and the Plaintiff, Polly Ann Craft, were members of the Church at the time as well as the Defendants and other members; that on the — day of September, 1896, according to the rules of the Church and the Sandlick Association, the matter was taken by letter and messengers to the Sandlick Association or Regular Primitive Baptist, both parties claiming to be the regular organized and legal body in order as the Sandlick Church, that after due consideration the Sandlick Association while in session at its regular annual meeting time received the letter presented by these Defendants and those identified with them as the regular organized body of the Sandlick Church in order and rejected those who were at that time identified with the Plaintiff, Sabrina Caudill and others, as not being in order; that since said rejection of the Plaintiff, Sabrina Caudill and those acting with her since said date of rejection by the said association up to the — day of June, 1905, the Plaintiff, Sabrina Caudill and those acting with her, were not in fellowship nor could not obtain fellowship with any of the regular Primitive Baptist and especially with those of the Sandlick Association and the Sandlick Church and those with whom they corresponded; that some time before the — day of June, 19—, it was made known to these Defendants and those who were associated with them, that the Plaintiff, Sabrina Caudill and such of the members of the Sandlick Church, which had discented from said Church which was at that time alive, which were very few made known to these Defendants and those associated with them, that they desired fellowship with us and the Sandlick Association and the Primitive Baptist with whom the said Sandlick Church and Sandlick Association correspond or were in fellowship with, and the Defendants being desirous on their part to maintain the

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rules of said Church and willing to forgive those who had violated the rules of said Church and receive them back into the full fellowship of said Church and those who were identified with these Plaintiffs, that according to said request of the Plaintiff, Sabrina Caudill and those identified with her, the time was agreed upon and published that the said members would meet at the church house on the lot of land in dispute herein, on the Saturday before the third Sunday in June, 1905, that on said date the Plaintiff, Sabrina Caudill, S. J. Caudill, who is now dead, and other members associated with the Plaintiff, met these Defendants and the members of said Church identified with them at the time and place published, after due consideration and by actual mutual agreement and consent of all the members present each party agreeing to forgive each other of all the trespasses against each other, all their said differences were reconciled and settled and the Plaintiff, Sabrina Caudill and those acting with her, were fully restored to the fellowship of said Church.

A copy of the order and proceedings of reconciliation in said Church is here referred to and made a part hereof, filed herewith marked "Order" for identity. That at said time and place the Plaintiff, Sabrina Caudill, then holding the keys to said church house, delivered to the Sandlick Church said keys, and she and those acting with her delivered the possession of said house and lot to the Trustees of said Church, to-wit: S. G. Fairchild, Robert Blair and Peter Adkins.

The Defendants further state and charge that on the — day of June, 1907, two years after said reconciliation as above referred to, the Plaintiff, Sabrina Caudill, was by proper proceedings had in the Sandlick Church, duly excluded from the fellowship thereof according to the rules of said Church and at a time when said Church was in regular session and had right and authority to act; that about five years thereafter the Plaintiff, Sabrina Caudill, began to claim a right to the church house and lot, that on the — day of —, 1912, she undertook to take possession of said house and lot without the consent of any of the members of said Church and began to claim that she was the Sandlick Church, and undertook to organize herself with other members of the Church. That on the — day of —, she succeeded in getting the Plaintiff, Polly Ann Craft, to dissent herself from said Church, and organize themselves into a body and attempted to call it the Sandlick Church, and is unlawfully and without right setting up claim to the church property and records and proceedings of said Church.

The Defendants further say and charge that since the organization of these Plaintiffs, which was on the — day of —, 191—, they have received into said body the Plaintiff, W. G. Caudill, David Caudill, William Ramey and Rachel Holbrook and others, which these Defendants cannot now give.

The Defendants further say and charge that on the — day of —, 18—, after due proceedings were had according to the rules and regulations of the Sandlick Association, the fellowship of the Sandlick Association was withdrawn from the Big Cowan Church and the same dropped from the said organization according to the rules and regulations thereof; that on the — day of

—, 78—, after due proceedings with the Indian Bottom Church by the Sandlick Association and according to the rules of same, the Association withdrew fellowship from the said Indian Bottom Church; likewise the Old Carrs Fork Church, Oven Fork Church and Mallet Fork Church. That after said churches were dropped from said Association according to the rules and constitution of said association, the said churches on the — day of —, 18—, assembled themselves together and organized themselves into a body called an Annual Union Meeting and adopted Articles of Faith different from that of the Sandlick Association and Sandlick Church, and maintained the said organization, together with other churches that they had received into said body for a period of thirteen years, at which time they changed the name of said body and called it the Indian Bottom Association of Old Regular Baptist. A copy of said Article of Faith adopted by them is here referred to and made a part hereof marked Exhibit "I" for identity.

The Defendants further state that since the Plaintiffs said organization and claiming to be the Sandlick Church, and since they have received the Plaintiff, W. G. Caudill, into their body, they have petitioned by letter and messengers to the Indian Bottom Association of Old Regular Baptist, and have been received into the said Indian Bottom Association.

The Defendants further say and charge that by reason of the acts of the Plaintiffs and those acting with them in subscribing to and adopting the said article of faith and constitution of the Sandlick Association and Sandlick Church, and by reason of the Association's actions in receiving the Defendants and those associated with them and rejecting the Plaintiff and those associated with them and by reason of settlement and reconciliation made and the delivering by the Plaintiffs and those identified with them to the Defendants and those identified with them the possession of the church house, lot and keys to said house, and by reason of plaintiff, Sabrina Caudill and Polly Ann Craft remaining in the fellowship of said Church so long with these Defendants after the reconciliation was made by them and those acting with them, and by reason of proceedings had in said Church and by reason of them petitioning and being received into the Indian Bottom Association of Old Regular Baptist, they are now estopped to set up any claim to the name of the Sandlick Church or church house and lot or either of them owned by it, or the records or proceedings of said Church, and the statute of said estoppel is herein pleaded and relief upon as a bar to Plaintiff's right, or either of them, to claim the name of the Sandlick Church, or any right, title or possession to said property.

The Defendants for further answer says and charges that they and those under whom they claim have been in the exclusive, open visible, notorious, hostile, adverse, quiet and peaceable possession, claiming, using and occupying the said lot of land and church house thereon as described in Plaintiff's petition for a period of more than 15 years and for more than 30 years, and the statute of limitation is herein pleaded and relied upon as a bar to Plaintiff's right of recovery herein.

The Defendants for further answer says and charges that on

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the — day of —, 1914, the Defendants and the rest of the members, in regular session at the regular meeting time of the Sandlick Church of Regular Primitive Baptist, in order to maintain the reunion and fellowship of the Plaintiffs, Sabrina Caudill and Polly Ann Craft, the Church caused an order to be made and entered in the records of said Church inviting said Plaintiffs to return to said Church and submit themselves to the order and rules of said Church, a copy of said order was sent to the Plaintiffs, Sabrina Caudill and Polly Ann Craft by mail by the Clerk of said Church, and the Plaintiffs have failed and still fail and refuse to return to and submit themselves to the rules and government of said Church, although having been so requested so to do by the said Sandlick Church, they say and charge that the Plaintiffs, Sabrina Caudill and Polly Ann Craft and those identified with them have violated the rules of the Sandlick Church and are now standing out in open violation of the rules and government of said Church and that for same they are now estopped to claim any right to the church house and lot, as well as the records and proceedings of said Church, and the statute of estopal is herein pleaded and relied upon by the Defendants as a bar to the claim of the Plaintiffs herein.

The Defendants also say and charge that the Sandlick Church of the Regular Primitive Baptist is ready and willing to restore the Plaintiffs, Sabrina Caudill and Polly Ann Craft, to the fellowship of said Church when they come and are willing to comply with the rules and government of said Church, and allow them the privileges of using same in connection with the other members of said Church and give them the privileges of the use of said church house and lot and the records of same, when they come and submit themselves to the rules and government of same.

Wherefore, the Defendants pray that upon final hearing of this cause that the Plaintiff's petition herein be dismissed, that they take nothing thereby, and that these Defendants be adjudged as the owners of said church house and lot and all the records and proceedings of said Church; that the Defendants recover their cost herein expended and all relief proper as will ever pray.

DEARING & BLAIR & HAWK,
Counsel for Defendants.

The affiant, Robert Blair, says that he is one of the Defendants in the above styled action, and that the contents of the foregoing answer and counter claim are true as he believes.

ROBERT BLAIR.

Subscribed and sworn to by Robert Blair before me this the 18th day of August, 1915.

R. B. BENTLEY, C. L. C. C.

Filed in Open Court August 18, 1915.

STEPHEN COMBS, Clerk.

LETCHER CIRCUIT COURT

W. G. Caudill, Etc. Plaintiffs
vs. [REPLY].
Robert Blair, Etc. Defendants

The Plaintiffs for reply to the Defendant's answer and counter claim herein, deny that the Defendants, Robert Blair and others

mentioned in the second paragraph of said answer and counterclaim, are the legal, or the constituted, or the only legal successors of the original Sand Lick Church as constituted and established. Deny that said parties have, at all times, been subject to all the by-laws or rules of said Church, and deny that they have ever departed therefrom.

Plaintiffs for further reply, deny that the Defendants and those acting with them, have at all times since the adoption of the Articles of Faith of the Sandlick Church in the year 1883, lived up to and have, or are now willing to be governed by the rules of said Church and the said Articles of Faith as the same was construed, taught and promulgated by the Sandlick Church.

Plaintiffs for further reply to the answer and counter claim of Defendants, say that they have no knowledge or information from which to form a belief as to whether or not the different divisions or bodies, of the Sandlick Church and the division lettered up to the Sandlick Association, and that the body represented by Defendants was recognized and the one represented by Plaintiff were rejected, and they therefore deny same, but they say that the Sandlick Association had no power or control over the churches composing it and had no power nor authority to say who was right or wrong in said division.

The Plaintiffs for further reply deny that the Plaintiff, Sabrina Caudill, and those acting with her were not in fellowship, and deny that they could not obtain fellowship with any of the Regular Primitive Baptist Churches, or especially with any of those of the Sandlick Association, or with whom it corresponded.

The Plaintiffs for further reply, deny that it was made known to the Defendants by Sabrina Caudill, or other parties acting with her, that they desired fellowship with the Defendants or the Sandlick Association, but say that the said Sabrina Caudill, and all those acting with her, were in full fellowship with all the members of the said Sandlick Church who had not absented themselves from the Church as set out and stated in Plaintiff's petition.

Plaintiffs admit that there may have been an attempt at reconciliation between the two bodies or portions of the Sandlick Church as herein described, but deny that any reconciliation was ever made or affected according to the rules and decorum governing said Church, or according to the rules and practice of said Church, and they deny that at said time or place the Plaintiff, Sabrina Caudill, then holding the keys to said church house, delivered to the Defendants or those acting with them, said keys. Deny that she or those acting with her delivered to the Defendants the possession of said church house or lot. The Plaintiffs deny that S. G. Fairchild, Robert Blair and Peter Adkins were the Trustees of said Church. Plaintiffs deny that two years after said attempted reconciliation, the Plaintiff, Sabrina Caudill, was by proper proceedings, had in the Sandlick Church, duly excluded from the fellowship of said Church according to the rules of said Church, or at any time when said Church was in regular session, or had right or authority to act. They deny that the said Sabrina Caudill ever claimed that she was the Sandlick Church. Deny that the Plaintiffs are unlawfully or without right setting up claims to the church property and records and proceedings of said Church.

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Plaintiffs for further reply deny that by reason of the acts of Plaintiffs, or those setting with them, in subscribing to, or adopting the articles of faith or constitution of the Indian Bottom Association, or of the Sandlick Church, or by the actions of the associations in receiving the Defendants and those associated with them, or rejecting Plaintiffs or those acting with them, or by reason of the settlement or reconciliation made, or attempted to be made, and they deny that any was made, or by delivery, by the Plaintiffs and those identified with them to the Defendants or those identified with them, the possession of said church house, lot and keys or by reason of the Plaintiff, Sabrina Caudill, or Polly Ann Craft remaining in fellowship of said Church so long with the Defendants after the reconciliation was made by them, or those acting with them or by reason of proceedings had in said Church or the exclusion of them from said Church, or by reason of them petitioning them or being received into the Indian Bottom Association of Old Regular Baptists, or by reason of any, or all of said acts, they are estopped to set up any claims to the name of the Sandlick Church or church house and lot, or either of them. Plaintiffs deny that the Defendants, or those under whom they claim, have been in the exclusive, open, visible, notorious, hostile adverse, quiet, or peaceable possession, claiming, using, or occupying the said lot of land and church house as described in Plaintiff's petition for a period of more than fifteen years, or for a period of more than thirty years, or for a period of fifteen years, or any other period of time. Plaintiffs deny that the Sandlick Church, composed of the Defendants and those associated with them, are ready or willing, or are authorized to restore the Plaintiffs, Sabrina Caudill, or Polly Ann Craft, to the fellowship of said Church.

Wherefore, Plaintiffs pray that the counter claim of Defendants be dismissed; that they take nothing thereby. They pray for the relief asked in their petition and for all other proper relief to which they are in law or in equity entitled.

D. D. FIELDS, Etc.,
Attorneys for Plaintiffs.

The affiant, W. G. Caudill, says that he is one of the Plaintiffs in the above action and that the statements of the foregoing reply are true as he verily believes.

W. G. CAUDILL.

Subscribed and sworn to by W. G. Caudill before me this 18th day of January, 1916.

D. I. DAY, Notary Public.

LETCHER CIRCUIT COURT

W. G. Caudill, Etc.....Plaintiffs

vs. [AMENDED PETITION.

Robert Blair, Etc.....Defendants

Comes the Plaintiffs, W. G. Caudill, Etc., and by leave of the Court amends their original petition herein, and for amendment says that since the filing of their original petition in this action, the Defendants have filed in this record a copy of the original articles of faith upon which the Sandlick Church was established in the year 1915, and which Articles of Faith the Plaintiffs did not

have in their possession, or where they could obtain same at the time of the filing of the original petition.

They state that the Sandlick Church was organized into a corporate body on the 13th day of August, 1815, and adopted as its Articles of Faith the said Articles of Faith that are filed with Defendant's answer, marked Exhibits and filed in this Court on the 11th day of January, 1916. Plaintiff's now refer to said Articles of Faith as part of this amendment as fully and as completely as if copied at length herein. They say that after the adoption of said Articles of Faith, that same was constructed by the ministers of said Church and the members thereof as holding and supporting the following doctrines and faiths, to-wit:

First. That Christ died for the sins of the whole world; that by his death and resurrection it was made possible for every person to be saved who would come upon the terms of the gospel, and that every adult sane person who was born into the world would be visited by the power of the Holy Ghost in some way so as to be shown that they were sinners, and if that person would truly repent of their sins that it would be possible for them to obtain a pardon and a free remission of their sins, but that the pardon of their sins would come to them after repentance.

Second. That said Articles of Faith as construed by the ministers of said Church supported the doctrine that the office and purpose of the preaching of the gospel was to the edifying of the Christian people and to the warning of sinners of the danger of living and dieing in sin.

They say that this doctrine was preached and promulgated by the ministers of said Church and there never was any other doctrine preached or promulgated by the ministers of said Church or believed in by the members of said Church until the Defendants, Robert Blair, Peter Adkins, Joseph Fairchild, Jr., become members of said Church and were authorized by said Church or other churches to exercise a public gift in the way of preaching. That after said time the Defendants and their associates departed from the faith heretofore preached and promulgated by said Church and believed in by the members thereof generally, but preached and promulgated the doctrine of special atonement, that is to say, that Christ did not die for the sins of the whole world, meaning all the Adamic family, but that He only died for the sins of such portions of the Adamic family as was embraced in the covenant between the Father and Son, the four worlds and for all for whom he died and made an atonement would be finally saved in Heaven. They further preached and promulgated the doctrine of absolute predestination of all things, which was a doctrine different from and contrary to the doctrine which had always been preached and promulgated in said Church by the ministers and members thereof; that they also preached and taught and believed that the persons of the Adamic family who were agitated, or exercised by the Spirit to the extent to show them that they were sinners and caused to repent of their sins was not thereafter pardoned of their sins, but shown that their sins were reconciled to God in the death of Christ. In other words, that they were already saved before repentance.

They further state that the Sandlick Church, prior to the

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preaching and advocacy of the doctrine of the said Robert Blair, Peter Adkins, Joseph Fairchild and their associates, believed that every person who was born into the world was possessed at the date of their birth of an immortal or never-dying soul, which was to be saved or lost, and that while said person was possessed of that immortal soul the sins of that soul could be pardoned and it be a saved creature; that while the Adamic body of that person was not immortal nor spiritual, but at times might commit sins, but for which when the influence of the immortal body was in supremacy or overpowered the natural body, that person would be sorry for their sin and that when a righteous person, whose soul had been pardoned of its sin died, that the soul or immortal part of that person would be in a state of paradise, and that at the day of the general resurrection that soul would be clothed with a body of immortality and ascend to Heaven and enter into the glories of the Father and to be eternally housed in the Kingdom of God. While the Defendants and their associates advocated the doctrines that it is not every person that is born into the world that possesses an immortal soul at the date of their birth, but that same, if at all, comes to them at a later date and that when said soul is agitated by the power of God or the Holy Ghost, as hereinbefore described, and to show that person that it is a sinner that then that spiritual or immortal part of man partakes of the natural part of man, and that the natural body partakes of the spiritual part so that they both unite and become one inseparable person; that at death that person goes into the grave and remains there both the spiritual and natural part until the day of the general resurrection, all of which, and was contrary to the doctrine preached, advocated and believed in by said Church prior to the preaching of the doctrine of the Defendants as aforesaid.

They further say that by the doctrine of absolute predestination of all things as preached and advocated by the Defendants and their associates, that they preached, teach and believe that there is never at any time any thing whatever left in the power or choice of the individual by the exercise of which he could in any way change or cause a change in his condition or do anything whatever to better his condition with reference to God or his soul's salvation. While the ministers and preachers of said Church, prior to the preaching of this doctrine by the Defendants, believed and advocated the doctrine that when the individual was warned of his sins and was exercised by the power of God or the Holy Ghost, that he could say that he was a sinner, that he then had the power to choose between good and evil, and that he had the power to reject the opportunity of repenting of his sins or he had power, by the help of God, if he so desired, to repent of his sins and by true repentance he would receive a pardon and remission of his sins, which doctrine and belief is different and contrary to the doctrine above described as preached and advocated by the Defendants and their associates.

Plaintiffs say that by reason of the preaching of the doctrine preached and advocated by the Defendants there arose a scism or a disagreement in said Church and that on or about the 16th day of May, 1896, there was a division of said Church as described

in the original petition; that said division was caused by the Defendant, Joseph Fairchild, announcing that he believed in the doctrine of absolute predestination of all things, and the eternal vital unity between God and His people, which doctrine was rejected by the Sandlick Church, which caused the Defendants to absent themselves from the Church, as stated in the original petition; that after they had absented themselves from the Church and organized themselves into another body, calling themselves the Sandlick Church, each of the Defendants were by proper proceedings of said Sandlick Church and its pastor, S. C. Caudill, excluded from membership and never was thereafter restored according to the usages and practices of the Regular Primitive Baptist Church; that therefore any attempt of reconciliation as plead and relied upon by Defendants was a nullity, not in conformity with the usages or decorum of said Church, and that by reason thereof the Defendants are not now and have never been, since their exclusion as aforesaid, members of said Church.

Wherefore, Plaintiffs pray as in their original petition and for all proper relief.

D. D. FIELDS, Etc.,
Attorneys for Plaintiffs.

The affiant, W. G. Caudill, says that he is one of the Plaintiffs in the above styled action, and that the statements of the foregoing amended petition are true as he believes.

W. G. CAUDILL.

Subscribed and sworn to by W. G. Caudill before me this January 31, 1916.

B. W. HALE,
Notary Public Letcher County.

LETCHER CIRCUIT COURT

W. G. Caudill, Etc. Plaintiffs

vs. [REJOINDER.

Robert Blair, Etc. Defendants

The Defendants come and for rejoinder herein and denies that the Sandlick Association had no power or control over the churches composing it.

Denies that the Sandlick Association had no power or authority to say who was right or who was wrong in said division of said Church.

ROBERT BLAIR, Etc., By Counsel.

The affiant, Robert Blair, says that he is one of the Defendants herein, and that the statements contained in the foregoing rejoinder are true as he believes.

ROBERT BLAIR.

Subscribed and sworn to by Robert Blair, this the 24th day of February, 1916.

ROBERT BLAIR, Jr., Examiner L. C.

Filed at March Rules, March 6, 1916.

S. P. COMBS, Clerk.

LETCHER CIRCUIT COURT

W. G. Caudill, Etc. Plaintiffs

vs. [ANSWER TO AMENDED PETITION.

Robert Blair, Etc. Defendants

Comes the Defendants, Robert Blair, Etc., and for answer herein, and not waiving their motion to make more specific Plaintiff's amended petition herein filed, but insisting and relying upon same

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and not waiving their motion to require the Plaintiff to elect, which one of the inconsistent pleas set up in the amended petition herein they will prosecute, but insisting and relying on same and not waiving their motion to strike all of that part of said amended petition beginning at the word "they" in the beginning of the literary paragraph number two, on page two, and the balance of said answer down to and including all of said remainder of said amended petition down to the prayer of same, and for answer to said amended petition denies that the Sandlick Church was organized into a corporate body on the 13th day of August, 1815, admits they adopted as its Article of Faith the said Articles of Faith that are filed with Defendant's answer herein, but they deny that after the adoption of said Article of Faith that same was construed by the ministers of said Church and the members thereof, as holding and supporting the following doctrine as set out in said amended petition; they deny said Articles of Faith were ever construed by the ministers of said churches holding and supporting the doctrine that Christ died for the sins of the whole world; deny that said doctrine is embraced in the said Articles of Faith; deny that the ministers and members of said Church construed said Articles of Faith as holding or supporting the doctrine that the death and resurrection of Christ was made possible for every person to be saved whom would come upon the terms of the gospel; deny that said doctrine was embraced in the articles of said Church; deny that the gospel has any terms except as belong to God alone; deny that the ministers and members of said Church construed the said Article of Faith of said Church as supporting and holding that every adult sane person who was born into the world would be visited by the power of the Holy Ghost in some way, so as to be shown that they were sinners, and if that person would truly repent of their sins that it was possible for them to obtain a pardon and free remission of their sins, but the pardon of their sins would come after their repentance; deny that any such doctrine is embraced in said Articles of Faith; they deny that the Articles of Faith of said Church were ever construed by the said members and ministers of said Church as supporting the doctrines that the office and purpose of the preaching the gospel was the edifying of the Christian people and the warning of sinners of living and dying in sin deny that said doctrine, or any part thereof, is embraced in said Articles of Faith; they deny that said doctrine was preached and promulgated by the said members of the said Church; they deny there ever was any other doctrine preached or promulgated by the ministers of said Church or believed in by the members of said Church until the Defendants, Rabert Blair, Peter Adkins, Joseph Fairchild, Jr., became members of said Church and were authorized by said Church, or other churches, to exercise a public gift in the way of preaching; deny that after said time, or at any other time, the defendants departed from the faith theretofore preached and promulgated by said Church and believed in by the members thereof generally; deny that they preach and promulgate the doctrine that Christ did not die for the sins of the world, meaning all the Adamic family only as hereinafter set out; that is they preach and teach that He died for the sins of the whole world, meaning all of the family of the last Adam; they deny that

they, the Defendants, preach and promulgate the doctrine of absolute predestination of all things which was a doctrine different from and contrary to the doctrine which had always been preached and promulgated in said Church; deny that said doctrine never was preached and promulgated by the ministers and members thereof prior to May, 1896; deny that they preach and promulgate the doctrine that such persons of the Adam family are exercised by the spirit to the extent to show them that they are sinners and caused to repent of their sins; deny that they preach or teach or promulgate the doctrine that their sins were reconciled to God in the death of Christ; deny that they preach and advocate the doctrine; that they were, in other words, already saved before repentance only in the wisdom and purpose of God, and that they are lead by the Spirit of God to repentance and receive a free pardon and remission of all their sins.

They deny that the Sandlick Church prior to the preaching and advocacy of the doctrine of the said Robert Blair, Joseph Fairchild, and their associates believed that every person that was born into the world was possessed at the date of their birth of an immortal soul which was to be saved or lost; deny that said doctrine was ever embraced in the said Article of Faith of the Sandlick Church; deny that the Sandlick Church prior to the preaching of the said Robert Blair, Etc., believed that while said person was possessed with that immortal soul the sins of that soul could be pardoned and it be a saved creature; deny that immortal is a creature; deny that the said Article of Faith embraced said doctrine; and deny that the Sandlick Church prior to the preaching of Robert Blair, Etc., believed that while the Adam body of that person was not immortal nor spiritual at times might commit sin but for which, when the influence of the immortal body was in supremacy or overpowered the natural body, that a person would be sorry for their sins; deny that there is any immortal body except the body of the Lord Jesus Christ; deny that the Article of Faith of the Sandlick Church embraced or supported any such doctrine; deny that the Sandlick Church prior to the preaching and advocacy of the doctrine of Robert Blair, Etc., believed that when a righteous person whose soul had been pardoned of its sins died that the soul or immortal part would be in a state of paradise and that at the day of the general resurrection that soul would be clothed with a body of immortality and ascend to Heaven and enter into the glories of the Father and to be eternally housed in the Kingdom of God; deny that said doctrine was embraced in the Articles of Faith of said Church.

The Defendants say and charge that none of said doctrine set out and claimed by Plaintiffs in their original petition above enumerated by the Plaintiffs as being the doctrine promulgated by the ministers of the said Church and as the doctrine believed by the members thereof is embraced in the Articles of Faith adopted by the said Church at the date of its constitution and upon which same was constituted; deny the Defendants preached and advocated the doctrine that the immortal soul of any person is agitated by the power of God or the Holy Ghost as herein described and set out in Plaintiff's amended petition herein, but they say that the immortality that is in the individual is Christ, the

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hope of glory, is what agitates or moves the creature and shows that person or creature it is a sinner; admit that they preach that the spiritual or immortality partakes of the nature of man and that the nature of man partakes of the spirit and they deny that to preach and teach that when the spiritual and natural partake of each other that they both unite and become inseparable person; deny that they preach and advocate that doctrine that at the death that person goes in the grave and remains there both the spiritual and natural part until the day of the general resurrection; deny that any doctrine preached or advocated by the Defendant is contrary to the doctrine preached and advocated and believed in by said Church prior to the said doctrine of the Defendants aforesaid; deny that the doctrine of predestination of all things as preached and advocated by the Defendants that they preach and believe that there is never at any time left in the power or choice of the individual by the exercise of which he could in any way change or cause a change in his condition or do anything whatever with reference to God only as hereinafter set out; deny that the ministers of said Church prior to the preaching of this doctrine believed and advocated the doctrine that when the individual was warned of his sins and was exercised by the power of God and the Holy Ghost, that he could see that he was a sinner; deny that he then had power to choose between good and evil; deny that the ministers of the said Church prior to the preaching of the doctrine of the Defendants that the ministers of said Church and members thereof believed that the individual had power to reject the opportunity of repenting of his sins, they say that said doctrine is not embraced in the Articles of Faith of said Church; deny that said doctrine advocated by any of the ministers or believed in by the Defendants is contrary to the doctrine advocated by said Church.

The Defendant denies that by reason of the preaching of the doctrine preached and advocated by the Defendants in said Church there arose a cism or disagreement in said Church; they deny that said division was caused by the Defendant, Joe Fairchild, announcing that he believed in the absolute predestination of all things, and the eternal vital unity between God and His people; deny that said doctrine was rejected by the Sandlick Church, which caused said Defendants to absent themselves from the said Church, as set out in the original petition; deny that they absented themselves from the said Church; deny that after they had absented themselves from said Church and organized themselves into another body, calling themselves the Sandlick Church; deny that they organized themselves into a body; deny that each of the Defendants were by proper proceedings of said Sandlick Church and its pastor, S. C. Caudill, excluded from the membership of said Church according to the usage and practices of the Regular Primitive Baptist Church; deny that there was ever any reconciliation as pleaded and relied upon by the Defendants; deny that said reconciliation was a nullity; deny the same was not in conformity with the usages or decorum of said Church; deny that the Defendants are not now nor ever have been since their exclusion as aforesaid members of said Church; deny that they were ever excluded from the fellowship of said Church.

II.

The Defendants for further answer to the amended petition herein say and charge that the ministers of the Sandlick Church and Sandlick Association prior to the 16th day of May, 1896, and ever since said date, preached and advocated the doctrine of absolute predestination of all things in the sense that God was before all things and by Him all things consist, that He was a Supreme Ruler and controller, and a sovereign God; that He is all powerful and there is no power but of God, and the powers that be are ordained of God; that said doctrine is embraced in the first item of the Article of Faith adopted by said Church at the date when it was constituted; they further say and charge that the doctrine of eternal vital unity of God and his people as preached and advocated by the Defendants is that Christ is the eternal life of all of God's people, and that life and God has always been at a unit with each other as expressed and embraced in the first item of the Articles of Faith, which read as follows:

"We believe in only one true and living God and notwithstanding there are three, that bear record in Heaven, the Father, the Son, and the Holy Ghost, yet there is one in substance equal in power and glory and cannot be divided, neither in principles nor practice, and is not liable to change."

(Said item is hereby referred to and made part hereof.)

They further say and charge that they preached prior to the 16th day of May, 1896, that the Old and New Testaments are the written words of God, and a sufficiency is therein contained for our instructions and that they are the only rule of faith and practice as embraced in the second item of the Articles of Faith of said Church; that they have always adhered strictly to the doctrine embraced in said first and second items of said Article of Faith and never have departed therefrom.

They further say and charge that on the — day of —, 1885, the Sandlick Church by unanimous voice, adopted the Articles of Faith set out and described in Defendant's original answer herein; they say that since the adoption of said Article of Faith of said Church that these Defendants have always since the adoption of same strictly adhered to the doctrines embraced therein.

They further say and charge that all the doctrine that these Defendants preached and advocated prior to the — day of —, 1885, was embraced in the Articles of Faith that said Church was constituted on; that since said date and the adoption of said Article of Faith, that the Church was governed by on the 16th day of May, 1896, they have strictly adhered to the doctrine embraced therein, which Article of Faith is here referred to and made part hereof.

They further say that they never have since they became members of said Church preached or advocated any doctrine except such as was embraced in the Articles of Faith of said Church upon which said Church was constituted and the Articles of Faith adopted by said Church on the — day of —, 1885, and embraced in the rule of faith and practice of said Church.

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Wherefore, the Defendant prays as in their original answer, and will ever pray.

The affiant and defendant, Robert Blair, says that the statements contained in the foregoing answer are true as he believes.

Subscribed and sworn to by Robert Blair before me this the 23d day of February, 1916.

LETCHER CIRCUIT COURT

W. G. Caudill, Etc. Plaintiffs
 vs. [OFFER BY DEFENDANTS TO ARBITRATE.
 Robert Blair, Etc. Defendants

This day came the Defendants, and being convinced that the question involved in this action is a difficult question to present to the Court, and also a difficult question for the Court to understand, it being a question of doctrine, and in order to prevent the long, worrbersome litigation and cost, and whereas the litigation is injurious to the Church, now in order to stop said litigation the Defendants now makes this proposition to the Plaintiffs that the Plaintiffs select three ordained Elders from the churches that compose the Sandlick Association September, 1895, or from any of the associations with whom the Sandlick Association was in correspondence with on September —, 1895, that were ordained Elders at that date, and the Defendant select three ordained Elders that were ordained Elders at said date of September —, 1895, and who belonged to the Sandlick Association at said date or belonged to any association with which the Sandlick Association was in correspondence with at said date, and the Court appoint one or more of the same bodies as above stated, the ones selected by the Court and the Plaintiffs and Defendants to constitute a committee to arbitrate said dispute and the Plaintiffs may take all the depositions they may see fit and file same with said committee, and the Defendants may take all the depositions they may desire and file same with said committee, and Plaintiffs and Defendants may appear before said committee, and present to said committee their views of the case to the committee, the committee to meet at the church house on the lot of land in dispute to hear both sides and to decide said litigation, and whatever decision a majority of said committee shall make, the Defendants will be governed by the same, as if the Court had rendered the decision.

ROBERT BLAIR, Etc.

Filed in open Court April 22, 1916.

S. P. COMBS, Clerk.

LETCHER CIRCUIT COURT

W. G. Caudill, Etc. Plaintiffs
 vs. [AMENDED REPLY.
 Robert Blair, Etc. Defendants

This day comes the Plaintiffs by counsel and by leave of the Court amends their original reply herein, and for amendment deny that the Sandlick Association is the highest ecclesiastical body

known to or ever subscribed to by the Primitive Baptist Church and denies that same was organized for or connected with the rules and government of the churches known as Regular Primitive Baptist and denies that said Association has any government for control over any of the churches belonging to said association.

Wherefore Plaintiffs pray in their petition.

D. D. FIELDS, Etc., for Plaintiffs.

The affiant, W. G. Caudill, says the statements in the foregoing amended reply are true, as he believes.

Subscribed and sworn to before me by W. G. Caudill, this day of April, 1916.

LETCHER CIRCUIT COURT

W. G. Caudill, Etc. Plaintiffs

vs. [DEPOSITION FOR PLAINTIFFS.

Robert Blair, Etc. Defendants

The deposition of W. G. Caudill, taken at the law office of F. G. Fields, by agreement, instead of at the law office of D. D. Fields & Son, pursuant to notice hereto attached, to be read as evidence in Plaintiff's behalf in the above styled cause now pending in the Letcher Circuit Court.

The witness after being duly sworn, in answer to questions states as follows:

DIRECT EXAMINATION.

By D. D. Fields, for Plaintiff.

Q. Please state your age, residence and occupation.

A. I was 66 years old in June. Live in Letcher County and have been a farmer by occupation.

Q. Are you acquainted with the land and building in controversy in this action?

A. I am.

Q. How long have you been acquainted with it?

A. Every since I was large enough to know anything, except about three years.

Q. Has the building now on that lot stood there ever since you can remember?

A. It has not.

Q. How long has the building now on said tract of land been there?

A. I don't remember. I can't state definitely.

Q. Was, or not, there a building on said land prior to the time the present building was placed thereon?

A. There was.

Q. What kind of a building was it?

A. It was a log building.

Q. What was the building used for?

A. It was used for the purpose of holding meeting.

Q. A. Q. A. Q. A. Q. A. that I is tha Q. A. name Q. V. A. I. Q. V. A. J. Q. V. is situ A. I. Q. A. A. C. ly a ha Q. I. A. I. Q. S. A. I. Q. I. proper A. I. don't t Q. I. Church and by A. I. brance the dee Q. D. A. I. Q. D. deed w. A. I. not mis Q. H. you file "W. G. A. I. Q. H. A. N. Q. I. etc., of liam A. dill, J. S. Nancy Green, decease Commis

Q. A church house?

A. Yes, sir.

Q. State if you know when that log church house was erected?

A. I do not know.

Q. When did you first know of it being there?

A. When I first commenced remembering anything. I expect that I can remember before it was put there, but my recollection is that I was very small.

Q. State if you remember what Church was held in that house?

A. It was called the Old Regular Baptist Church, known by the name of the Sandlick Church.

Q. Who owned the land where that church house was erected?

A. My father.

Q. What was his name?

A. John A. Caudill.

Q. Where did he live with reference to where the church house is situated?

A. He lived where I now live, a little north course from it.

Q. About how far from the church house?

A. One-half mile or upwards, I reckon, to go the road, and hardly a half mile a direct course.

Q. How long did he live there?

A. From the time I first remember until his death.

Q. State if you remember the date of your father's death.

A. He died on the 10th day of May, 1873, is my recollection.

Q. Did he ever execute to the Sandlick Church any deed for the property in litigation; I mean the land in litigation?

A. I don't reckon he did. He laid off for that purpose, but I don't think he executed a deed.

Q. If there has ever been a deed executed to the Sandlick Church for that property, please state to whom it was executed and by whom.

A. It was executed by the Master Commissioner is my remembrance; I think S. R. Adams was the Commissioner that executed the deed.

Q. Do you remember the date of the deed?

A. I do not.

Q. Do you remember the names of the parties from whom the deed was executed by the Commissioner?

A. I think that John A. Caudill's heirs and Mrs. Quillan, if I am not mistaken.

Q. If furnished a certified copy of the record of said deed will you file same with, and make it a part of your deposition marked "W. G. C. No. 1"?

A. I will, and make it a part of my deposition.

Q. Have you the original deed, or do you know where it is?

A. No, I have not the deed, and don't know where it is.

Q. I see recorded in Commissioner's Deed Book 1, at page 535 etc., of the Letcher County Court Clerk's Office a deed from William A. Caudill, S. J. Caudill, Benjamin E. Caudill, Samuel C. Caudill, J. S. Fairchild, Sarah Fairchild, J. D. Caudill, John H. Craft, Nancy Craft, E. A. Craft, Polly Ann Craft, W. M. Green, Elizabeth Green, W. G. Caudill and D. J. Caudill, heirs of John A. Caudill, deceased, and R. A. Quillen and Charlie Quillen by S. R. Adams, Commissioner, to the Sandlick Regular Baptist Church. Is that

the deed you spoke of before and referred to as a part of your deposition?

A. It is.

Q. Who was William A. Caudill, S. J. Caudill, Benjamin E. Caudill, Samuel C. Caudill, Sarah Fairchild, J. D. Caudill, Nancy Craft, Polly Ann Craft, Elizabeth Green, W. G. Caudill and D. J. Caudill, mentioned in said deed?

A. They were children and heirs of John A. Caudill, deceased.

Q. I see that said Deed Book is dated August 2, 1893. Tell the Court if you remember whether or not the house now situated on said tract of land was then erected thereon at the date of that deed?

A. Yes, it was there at the date of that deed.

Q. I notice that the record shows that said deed was made in the case of R. A. Quillen, Etc., vs. Heirs of John A. Caudill, deceased. State whether or not R. A. Quillen claimed to be the owner of the land now in litigation?

A. Yes, he claimed to be the owner of the land.

Q. State if you know who attended to that case on behalf of the Sandlick Church.

A. Myself and brother, S. C. Caudill. Joe Eversole attended to it for us first.

Q. Did yourself and brother, S. C. Caudill, expend any money in defense of that action?

(Defendant objects and excepts to the foregoing question and to any answer thereto.)

A. We did.

Q. Please state how much, if you know.

A. I don't remember how much. We paid the attorney fees, in my recollection. If we paid any more I don't remember; my recollection the attorney fee was \$10.00.

Q. You spoke a while ago of the Church being required to erect a building on the property before you got the deed. State if you remember the cost of the building.

A. The building cost \$200.00, in my recollection; putting it up and the seats were made extra. I don't remember their cost. Brother Sam furnished the lumber.

Q. Your brother, Samuel C. Caudill?

A. Yes, sir. And I delivered it to the mill. We got Samuel J. Wright and Davis Bentley to take the mill to Samuel C. Caudill's for that purpose, and I delivered the biggest part of it from there to the church house site.

Q. How far was the timber to deliver from where it grew to the mill site?

A. Part of it was, I guess, 300 yards or more; the biggest part of it.

Q. How far was it from the mill site to the church house site?

A. I guess something near 4 miles, 3½ anyhow.

Q. State if you know who paid the saw bill and for the erection of the house.

A. S. C. Caudill paid the saw bill, I reckon. I don't know who paid it, and various others paid for building the house; I don't know who all. As I remember it the Sandlick Church owed S. C. Caudill about \$100 over and above his part of the erection of the

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house and no person paid me for hauling the lumber or timber, and I boarded the hands while they made the seats, for my part.

Q. Can you remember when the Sandlick Church was first organized?

A. I can not.

Q. When can you first remember that there was a Sandlick Church?

A. I guess 60 years or more.

Q. Who was the pastor of the Church when you first can remember?

A. John A. Caudill, my father.

Q. How long did he remain pastor of the Church?

A. Until he died, I reckon. I dont' reckon there was any change made.

Q. State if you remember who was next pastor of the Church after the death of your father.

(Defendants object and except to the foregoing question or any answer thereto.)

A. I don't know exactly, but it strikes me that Uncle Henry Day was.

Q. Please state or give the names of all the persons after your father's decease stood as pastor or moderator of the Church.

A. Uncle Henry Day, Peter Adkins, I think, Sam C. Caudill. I don't know whether Uncle Peter was moderator or just assistant. That is all I remember. I know several that were assistants.

Q. Have you in your possession or in the possession of the Sandlick Church as now organized by you and your assistants, the church record which shows the transactions of the Church down to the time of the division of the Church, spoken of in the pleadings?

A. I have not.

Q. State whether or not that record is in the possession of the Defendant, as you are informed.

A. It is.

[There not being time to complete this deposition, the further taking is continued until tomorrow morning at 8 o'clock, to be resumed at the law office of D. D. Fields. Met pursuant to adjournment at the law office of D. D. Fields & Son and proceeded to take the deposition of W. G. Caudill.]

Q. I will ask you to state to the Court whether or not you was present at the May session of the Sandlick Church, 1896, when there was a division or cism in said Church over the question of doctrine.

(Defendant objects and excepts to the foregoing question and excepts to any answer thereto.)

A. I was.

Q. Are you the husband of Sabrina Caudill?

A. I am.

Q. State, if you remember, when she become a member of the Sandlick Church.

A. It was about the year 1887, is my recollection.

Q. State if you remember who was the pastor of the Church at the time she become a member.

(Defendant objects and except to the foregoing question and any answer thereto.)

A. I don't remember the pastor, but I remember who taken her in and baptized her. It was my brother, B. E. Caudill.

Q. Where did he live at that time?

A. I don't know for certain, but I think he lived in Clay. I am not positive about that. It may have been before he came back to this country, I can't say.

Q. When did you become a member of the Sandlick Church?

A. I have the date here; August 17, 1913.

Q. I wish you would detail in your own language all that occurred in the Church meeting of May, 1896, when the division occurred.

A. All that I recollected, Uncle Peter Adkins was moderator at the time and there was a question come up, something about the doctrine, by J. W. Fairchild. He claimed that he preached absolute predestination of all things and a final union or unity; I don't remember which way he said it, between Christ and his children, and from that, if I am not mistaken, that S. C. Caudill objected to the doctrine, or some of them did, and I think there was a question before them that all that believed in the doctrine that J. W. Fairchild preached could be seated together, I think, I don't remember exactly, but that is the way I have got it in my mind. Robert Blair, S. G. Fairchild and J. W. Fairchild at that time I think seated themselves, and then Uncle Peter Adkins claimed that he believed in the doctrine of J. W. Fairchild, and my recollection is that S. C. Caudill took the stand and I think he called for, or objected, to the doctrine to be seated. I forget what he said, but he meant for them to let it be known in some way or other. There was a majority of them that were against the doctrine and S. C. Caudill went ahead with the business of the day.

Q. You have stated that S. C. Caudill took the stand. What do you mean by that?

A. If I understand it, he was moderator, and he took the stand to act as moderator.

Q. What was the doctrine that they were voting on that you state a majority of the Church voted against.

A. It was the doctrine of J. W. Fairchild claiming that he preached, as above stated.

Q. Up until that time, and since you can remember, had you attended the Sandlick Church much or little?

A. Right smart. I attended tolerably regular.

Q. Did you notice and pay attention to the doctrine that was preached and advocated by the ministers and the doctrine that was believed in by the members of the Church up to that time?

(Defendant objects and except to the foregoing question and any answer thereto.)

A. I did.

Q. About how many years would you say that you had been tolerably regular in attendance at that Church?

A. From the time I can remember up until the Civil War, and then from the Civil War until the division above spoken of.

Q. From the time you can first remember, up until the division come had you ever heard preached or promulgated in the Sandlick Church by its pastors or visiting ministers the doctrine of absolute

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(Defendant objects and except to the foregoing question and any answer thereto.)

A. From the time I got old enough to understand anything about preaching I never heard anything said about it until some few years before the split. I don't remember how long it was before the split. It was talked of and I might have heard some of them preach it. I couldn't say as to that.

Q. State if you remember who it was you heard preach it.

(Defendant objects and except to the foregoing question and any answer thereto.)

A. I heard Uncle Peter Adkins, Jim Hall, W. W. Caudill, J. W. Fairchild and a man by the name of Allen. I heard them preach pretty much such doctrine.

Q. Did you ever hear the Defendant, Robert Blair, preach such doctrine as that?

A. I don't remember that I did. I never heard him preach much.

Q. Is the Peter Adkins you have mentioned the same Peter Adkins who is mentioned in this action and who has testified in same?

(Defendant objects and except to the foregoing question and any answer thereto.)

A. The same Peter Adkins.

Q. Give your best impression as to how many years you have heard these parties preach that doctrine before the division in the Sandlick Church?

A. I couldn't state the number of years before the split in the Church. I guess it was four or five years, is my best impression. I have heard it preached at the Association, but I didn't hear all these parties preach that doctrine at the Sandlick Church?

Q. Go ahead and state the ones you have heard preach that doctrine at the Sandlick Church?

(Defendants object to the foregoing question and except to any answer thereto, because it is leading and suggestive to the witness and is incompetent.)

A. J. W. Fairchild, Jim Hall and Uncle Peter Adkins.

Q. Tell the Court whether or not any person or member of the Sandlick Church had withdrawn from the Sandlick Church on account of the doctrine you speak of being preached by Peter Adkins, J. W. Fairchild and Jim Hall prior to the division in the Church you speak of.

A. There were.

Q. Give the names of as many as you can remember.

A. W. M. Jenkins, W. J. Tyree and J. B. Cornett.

Q. I notice in the Defendant's answer they speak or allege that Sabrina Caudill and those associated with her had made known to the Defendants, or that it had been made known to the Defendants and those who were associated with them, that the Plaintiff, Sabrina Caudill, and such of the members of the Sandlick Church which had dissented from said Church, that they desired fellowship with Defendants and the Sandlick Association and the Primitive Baptists with whom the said Sandlick Church and Sandlick

Association were in fellowship with. State whether or not you ever heard of such a request as that going forth from your wife, Sabrina Caudill.

(Defendants object to the foregoing question and excepts to any answer thereto, because the Plaintiff, Sabrina Caudill, is alive and can testify as to this and the above named facts herself, and any statement the witness makes is incompetent.)

A. I never did to my knowing.

Q. I notice that the Defendants in their answer claimed that a reconciliation was made between the members of the Sandlick Church after the division had been made in 1896. Was you present when it was claimed that reconciliation was made?

(Defendants object to the foregoing question and except to any answer thereto, because same is leading, suggestive to the witness and is incompetent.)

A. My recollection is that I was, on Saturday.

Q. I wish you would state in detail just what was done so far as you remember.

A. My recollection is after little caucusing that they kindly got Joe Hall to stand as the moderator and attend to the Church work. He put some questions before them about making the acknowledgment or something to that amount to each other, and my recollection is that Uncle Jesse Holbrook was the only man that spoke when he had put the question to them to forgive each other and come together as they once stood; that is, he said he was willing to be governed by the same rules and regulations as before the split. Or in substance, that was the way. There was no other person spoke that I remember of.

Q. Is that all that was done that you remember?

A. I remember that they appointed Robert Blair Clerk pro tem.

Q. Was your brother, Samuel C. Caudill, present at that time?

A. He was not.

Q. State, if you know, where he was.

A. He was at home, not able to be there.

Q. How long had he been sick, or unable to attend Church?

A. The last time I remember him being there was about the third Saturday in October, 1902. That is the last time I ever heard him preach.

Q. Did you ever see him and have a conversation with him after the time the Defendants claim the reconciliation was made?

A. I did.

Q. Did you hear him talk anything about the reconciliation as it was claimed was made in the Church?

A. Yes.

Q. State whether or not he said anything about whether he was satisfied or dissatisfied with the reconciliation as they claimed to have made it, and state what he said about it.

(Defendants object and except to the foregoing question and any answer thereto, because he is now dead, and any conversation or act done or omitted to be done by him is not competent as evidence in favor of the Plaintiff.)

A. He said that he wasn't satisfied. He said they had not done it according to the way he directed them to; or the way he had di-

rected Joe Hall, the way I understood him. He told me they were to come there to him and make the acknowledgements to him for the way they had treated him and for the doctrine they had been preaching. I don't know whether it was the same time as that I seen Uncle Peter Adkins coming and Brother Sam hobbled out on his cane into the lot and called to Uncle Peter to stop, that he wanted to talk with him, and Uncle Peter answered him that he didnt' have to, and rode on.

Q. How long did your brother, Samuel C. Caudill, live after the date of the reconciliation, as claimed by the Defendants?

A. My recollection is that he died in 1907, and I believe they claim 1905 as the reconciliation. Their record shows, I believe, it was in 1905, something near two years.

Q. Was he ever able to attend to the Sandlick Church after the date they claim the reconciliation was made?

A. The last time I remember him being out any distance was at the November election, 1902. I think that is the last time I remember him being at my place.

Q. Is your place between his place of residence and the Sandlick Church?

A. Yes, sir. Then after he come to see his brother, Steve Caudill, at J. N. Thompson's, just before brother Steve died, and that is between my place of residence and his. Since answering the question as to what brother Sam said about the reconciliation it has come to my mind. He told me that J. W. Fairchild was the only one that had ever come to him and made proper acknowledgment to him.

Q. You spoke a while ago about the Church voting on the date of the division in 1896 on the question of doctrine advocated by J. W. Fairchild, and that afterwards Samuel C. Caudill took the stand as moderator of the Church. Tell the Court what he did after that in the way of conducting the Church service on that day.

A. He organized the Church, the way I understood it, and all that were in favor of the doctrine that J. W. Fairchild preached, I think, they just withdrew from the Church.

Q. What did the rest of the Church do?

A. Sam went ahead then and attended to the Church business, as he always had, and the members that stood by him rejected the doctrine that had been advocated by J. W. Fairchild.

Q. When you speak of his organizing the Church, do you mean that he organized a new Church or convened the members of the Sandlick Church?

(Defendants object and except to the foregoing question and answer thereto, because same is leading and incompetent.)

A. What I mean by the organizing of the Church was the members that were there and stood by him, they just went ahead with the business of the Church, and the others withdrew, is the way I understand it.

Q. State, if you know, who had the Church records on that day.

A. S. G. Fairchild was the clerk, and I suppose he had the records.

Q. Do you hold any official position in the Sandlick Church?

A. I am deacon and also assistant clerk, and other little offices.

or two that I hold.

Q. State whether or not the Sandlick Church as then convened by Samuel C. Caudill on the day of the division, made any record of the proceedings and transactions of the Church on that day.

A. They did.

Q. Will you, as assistant clerk, furnish the notary public with a certified copy of the records of the proceedings on that day and refer to it as a part of your deposition?

A. I will, and mark it "W. G. C. No. 2."

Q. After the date of the division tell the Court whether or not Samuel C. Caudill and the members who stood with him continued to convene at, and hold their meeting in the church house on the land in controversy in this action up until the time that said Caudill was taken sick and could not attend the meetings?

A. They did. And still later on, too, when he wasn't able to be there.

Q. State who acted as moderator of the Church at the time the meeting was held at the church house on the property in controversy after Samuel C. Caudill was unable to attend.

A. J. D. Caudill was appointed assistant moderator of the Church.

Q. State if you know what Church he was a member of?

A. He was a member of the Indian Bottom Church.

Q. Tell the Court whether or not the Defendant, Robert Blair, Peter Adkins, J. W. Fairchild or James Hall ever attended any of these meetings that was held by Samuel C. Caudill or J. D. Caudill at the church house after the date of the division.

A. Not to my knowing. They never did, as I remember of, until the time that they claimed the reconciliation was made in 1905. My recollection that brother J. D. Caudill was at that meeting and was assistant pastor at that time.

Q. Do you know why he did not act as moderator on that date the reconciliation was claimed to have been made?

A. I do not.

Q. Do you know at whose suggestion Joseph Hall acted on that day?

A. The way I remember about it, after they done their caucusing, talking around with each other, Joe Hall then got up as moderator, is about all I know, and I allowed they were the ones who put him up.

Q. Was there any proposition or question put to the Sandlick Church as to whether Joe Hall should act as moderator that day before he took the stand as moderator?

A. There was none that I heard of, and I was listening pretty close.

Q. State if you know what Church the Joe Hall acted as moderator on that day, claimed to be a member of.

A. My recollection is he claimed to be a member of the Millstone Church. I don't know where his membership was without it was Millstone.

Q. Does he now belong to any Church?

A. I don't know whether he does or not.

Q. I will ask you whether or not it is a fact that he has been indicted and convicted in the Letcher Circuit Court of adultery and

has been preach?

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has been excluded from the Church and has quit attempting to preach?

A. I don't know only what I have heard.

Q. Have you heard that to be true?

A. I have.

(Defendants object to the foregoing answer and move to exclude it.)

Q. Is the J. D. Caudill you speak of being assistant pastor or moderator of the Sandlick Church dead or living now?

A. He is dead.

Q. State whether or not Samuel C. Caudill and the Sandlick Church in his care as pastor or moderator kept the record of the proceedings of said Church after the day of the division.

(Defendants object to anything that was done by Samuel C. Caudill or his followers after the proceedings.)

A. They kept a record up until about 1903, I believe.

Q. State whether or not the records of their meetings of said Church shows that the Defendants, Robert Blair, S. G. Fairchild and Peter Adkins, were excluded from the Church.

(Defendants object and except to the foregoing question and answer thereto, because the record is the best evidence.)

A. It does.

Q. Will you furnish a notary a certified copy of said record showing their exclusion and refer to it as a part of your deposition marked "W. G. C. No. 3"?

A. I will.

Q. Have you the custody of that record?

A. Yes, I have it. It never has been away from my house since I got hold of it, which was some time before brother Samuel C. Caudill died.

Q. It is alleged in Defendant's answer in this case that after the date of the reconciliation as claimed by them, that Sabrina Caudill and others organized a Church and called it the Sandlick Church. Tell the Court whether any organization of a new Church was made after the death of Samuel C. Caudill by your wife or those associated with her.

(Defendants object to the foregoing question and except to any answer thereto, because the record is the best evidence.)

A. No. There was no organization made, only they met and appointed a moderator and clerk and carried on the business of the Church.

Q. Did the Church make a record of that meeting?

A. They did.

Q. Will you file with the notary a copy of the record of that meeting and mark it "W. G. C. No. 4," and refer to it as part of your deposition?

A. I will.

Q. When you say the Church met, do you mean the members who stood by and affiliated with Samuel C. Caudill in his lifetime?

(Defendants object and except to the foregoing question and except to any answer thereto, because same is leading and suggests the answer to the witness, and asks the Court to exclude any answer the witness may make to said question because same is incompetent.)

A. I do.

Q. It is claimed by the Defendants in their answer that after the division spoken of by you in 1896, that that portion of the Church who affiliated with and approved of the doctrine of J. W. Fairchild, Robert Blair, Peter Adkins, lettered up to the Sandlick Association, claiming to be the Sandlick Church and that the Samuel C. Caudill and the members who affiliated with him lettered up and claimed to be the Sandlick Church. Tell the Court whether or not you was present at the time it was claimed by them that these letters were filed at the Association?

(Defendants objects and except to the foregoing question or any answer thereto, because said allegation of the answer referred to in the question has never been specifically denied, and there is an order in the Letcher Circuit Court taking said allegation as true and any proof offered in support of same will be incompetent.)

A. I was present at the Association and my recollection is that Uncle Peter Adkins was acting as moderator for the Association and called for letters from the different churches, called from the Sandlick Church and my brother, S. C. Caudill, arose and offered a letter. Uncle Peter told him to take his seat. Sam says: "You called for letters from the Sandlick Church, and I have one," and he told him again to take his seat. Sam, the third time, remarked to him that he had a letter from the Sandlick Church and the delegates there with him offering a letter, and he told him the third time to set down, and he taken his seat.

Q. Then, if I understand you, the letter that Samuel C. Caudill and the delegates associated with him offered to the Association, was never received by the Association, and no question ever made about it before the body as to whether it should be received or not. Is that right?

A. Thy refused to receive the letter and the delegates.

Q. Was that refusal made by the vote of the house or by the moderator alone?

A. The refusal was made by the moderator, Uncle Peter Adkins, and not by the house, while we were there.

Q. Can you give the date of that Association?

A. It must have been in September, I think, after the split, after the division. It was held with the Maces Creek Church at the mouth of Maces Creek.

CROSS EXAMINATION

By Robert Blair, for Defendants.

Q. You stated in your deposition in chief that your father, John A. Caudill, died sometime in 1873. I will ask you whether or not at the time of his death he was the owner or legal title holder to the land in controversy in this action?

A. The way I understood it he made a will and I think in his will he stated that a certain portion was to be laid off to the old Baptist Church, and part for a graveyard.

Q. Who was the owner of the land adjoining the church house property and the graveyard at the time of the death of your father, if you know?

A. My father was the owner of it.

Q. After his death was that portion of the land divided, and if so, to whom did it fall, if anyone, in the division?

A. It was divided, and fell to my sister, Polly Ann Craft.

Q. Is that the same Polly Ann Craft that is one of the Plaintiffs in this action?

A. It is.

Q. To whom did she sell, if anyone, the land?

A. I am informed to S. J. Caudill.

Q. By way of refreshing your memory, I will ask you if she didn't convey it to R. A. Quillen?

A. No. She sold it to S. J. Caudill, my brother.

Q. Did the tract of land she sold your brother, S. J. Caudill, embrace the land in controversy in this action?

A. It was adjoining the land. Steve Caudill bought her part. He sold to Quillen and didn't set out any part for the church house or any other, is the way I understood, and that is how come that law suit.

Q. Is that what caused the law suit about the church house property you spoke of in your deposition in chief?

A. That is what caused the law suit with Mrs. Quillen and the heirs of John A. Caudill about the property.

Q. The Sandlick Church was a party to that action, was it not?

A. It was.

Q. Did you know how long that litigation was carried on?

A. It wasn't very long, I don't think.

Q. You spoke in your deposition in chief that you and your brother, S. C. Caudill, attended to that law suit. I will ask you at the time of that suit whether or not you was a member of any church?

A. I was not.

Q. I will ask you to tell the Court what you did in that respect; if you didn't do it in a way of donation and not expecting to receive and remuneration back for same.

A. The reason why I did that was because my father had donated that property there for the benefit of the Sandlick Church and I thought it was my duty as an heir to have put in shape the way he wanted it done to go for the benefit of the Church. I never expected to receive anything back. The only thing I done was to help the Church.

Q. Do you know when your father first began preaching?

A. I do not.

Q. Do you know whether or not he was ever elected by the body of the Sandlick Church as moderator?

A. I know that from a record I have at my house that he was acting as moderator in the year 1849 on up until I can commence remembering, and he was called the moderator of the Church when he died.

Q. Is that record you have any portion of the record of the Sandlick Church?

A. Yes. It is a record from 1848 until 1855, is my recollection.

Q. Is it in the form of a church book?

A. It is, I reckon, the way they kept their church record at that day and time.

Q. For how many years have you the record, did you say?

A. From '48 up until about '55, and is a church record and is very complete in the way it was kept by the Church.

Q. I see you charge in your petition here that at the date of the division in 1896 that S. G. Fairchild left the house together with the other defendants and taken all the church records and proceedings with him. I will now ask you to tell the Court that allegation is true.

A. At the time the petition was drawn up I thought that was true, but since that time we found this record up at Sam Caudill's widow, where Bob got the Sandlick Association book, or where I am informed he got it.

Q. Then, if I understand you, that allegation of the petition is not true. Is that correct?

A. The way I made that petition there, I didn't know but what they had taken all the record.

Q. Is it true, or not?

A. It is true. I got that record since.

Q. Then you do not know whether or not this record you speak of getting at Sam Caudill's house was ever in the possession of S. C. Fairchild, do you?

A. I have my doubts as to whether it was in his possession. If it has been, he would have kept it, of course.

Q. You stated in your deposition in chief that the building of the church house now on the lot of land in dispute cost \$200.00. I will now ask you to tell the Court if you know who all helped to pay for the building of the house?

A. I do not. Brother Steve was to keep a memorandum of what was paid, but I never seen it that I remember of.

Q. Do you know how much S. C. Caudill agreed to donate to the building of the house?

A. I do not.

Q. Do you know whether he agreed to donate any, or not?

A. He agreed; me and him together agreed to get a saw mill—

Q. I want to know whether he agreed to donate any to the Church, or not?

A. I never heard him make any contract with the Church.

[There not being time to complete the taking of this deposition on today, the further taking is now continued until Wednesday morning, March 29, 1916, to be reconvened at the same place and for the same purpose stated in the caption. Met pursuant to adjournment and proceeded with the deposition of W. G. Caudill.]

Q. I see in your desposition in chief you state that the commissioner's deed conveyed the interest of the heirs of John A. Caudill in the tract of land in dispute to the Church. I will now get you to tell the Court which one of the children of John A. Caudill, if any, were members of the Sandlick Church at that date, and give the name of each one.

A. S. C. Caudill, S. J. Caudill, Polly Ann Craft and Sarah Fairchild, I reckon, I don't remember whether she was or not.

Q. Do you know which joined the Church first, Sarah Fairchild or Sabrina Caudill?

A. I don't know, but I think Sarah Fairchild joined first, is my recollection.

Q. About how long first, if you remember.

A. I don't remember.

Q. By the way of refreshing your memory, I will ask you if Sarah Fairchild didn't join the Church in the year 1879?

A. I don't remember. I don't remember exactly what time she joined.

Q. Do you know who baptized her?

A. I do not.

Q. Was you present when she was baptized?

A. I may have been. I don't remember.

Q. Do you remember the time when Robert Blair joined the Sandlick Church?

A. I do not.

Q. Was you present when he was baptizd?

A. I don't remember whether I was present when he was baptized or not.

Q. By the way of refreshing your memory I will ask you if it is not a fact you were present when Sarah Fairchild and Robert Blair were baptized, and if your brother, B. E. Caudill, didn't baptize them both the same day?

A. I may have been present, but I don't remember it. I generally attended the meetings when he was there.

Q. Was your brother, B. E. Caudill, ever a member of the Sandlick Church?

A. He was.

Q. Was he, or not, an ordained minister of that Church?

A. He was an ordained minister, ordained by the Sandlick Church.

Q. Do you know when he left the Sandlick Church?

A. I do not.

Q. Do you know to what Church he went when he left the Sandlick Church?

A. I do not.

Q. Is he living or dead?

A. Dead.

Q. How long as he been dead?

A. I can not state exactly.

Q. I will ask you if he didn't claim to be a Predestinarian Baptist?

A. Never while I heard him preach.

Q. I will ask you if you have not heard him say in the pulpit that he was a Predestinarian Baptist?

A. I don't think I ever did.

Q. Do you remember the time that the Sandlick Association was held with the Sandlick Church at the time that B. E. Caudill and Taylor Gilbert were there together when the preaching was over on the hill at the back of the Bent field?

A. I remember them being there at the Association.

Q. Do you remember him preaching on the stand there?

A. If he did preach I heard him. I was there.

AQ. By the way of refreshing your memory I will ask you if he and Taylor didn't preach on the stand there and Basil Hatfield on Sunday?

A. I don't remember who all preached.

Q. By way of refreshing your memory I will ask you if when he

first arose in the stand to preach on Sunday morning, if about the first or second remark that he made as he came to the pulpit, that he was a Predestinarian Baptist?

A. I don't remember ever hearing him use such language.

Q. Were you there when he got up?

A. I don't know whether I was right by, but I was there at the Association.

Q. You state in your deposition in chief that you was present at the session of the Sandlick Church in May, 1896. I will now ask you to tell the Court whether or not you were present at the April meeting, 1896?

A. I may have been. I don't remember.

Q. I will get you to tell the Court how long it has been since your brother, B. E. Caudill, and Taylor Gilbert was at the Sandlick Association at the Sandlick Church at the time you spoke of a few minutes ago.

A. I don't remember the date.

Q. About how long has it been?

A. I could not tell you.

Q. I will ask you if it wasn't before ever the Defendant, Peter Adkins, moved to this country?

A. I don't think it was. I don't remember when he moved here.

Q. However, you do remember at that Association held with the Sandlick Church at that time the doctrine that you object to was preached there, was it not?

A. Yes.

Q. You was not a member of the Church at that time, were you?

A. I was not.

Q. Do you remember whether or not there was any trouble in the Sandlick Church and the Millstone Church prior to the May session of said meeting, 1896?

A. Nothing only what I heard discussed there at the Church.

Q. You had heard then that there was some trouble between the Sandlick Church and the Millstone Church

A. I had heard some talk of it.

Q. I will ask you if you don't know that there was a letter prepared at the April meeting, 1896, of the Sandlick Church to the Millstone Church in regard to the trouble that existed between the two churches?

A. I don't know.

Q. Did you have any information that there was?

A. Not until since I read your deposition I don't believe, yours or Steve Fairchild's one.

Q. Then about them days you wasn't paying much attention to what the Church was doing, that is in regular session, what they were doing?

A. I think I was trying to hear the gospel preached and such as that I tried to take in all I could. Of course I didn't see after the church affairs at that time like I do now.

Q. I will ask you whether or not the record you have which you claim to be the record of the Sandlick Church shows any disposition of the trouble that existed between the Millstone Church and the Sandlick Church; that is, what was done with the trouble that existed between them?

A. It shows to some extent about the trouble there and it also shows that that trouble was done away with, I believe, at the May meeting in 1896, is my recollection about it.

Q. Then does that record show that the reference between the Millstone Church and the Sandlick Church was settled?

A. All I know about is what that says there.

Q. You was present on that occasion?

A. Which occasion?

Q. May, 1896.

A. Yes.

Q. I will ask you to tell the Court whether or not the Sandlick Church ever, at any time, preferred any charges against Robert Blair relative to doctrine?

A. The way that I understand that there they preferred it when you withdrew from the Church there at that meeting.

Q. I will ask you to take that record and see whether or not that record of the May meeting which was made by the members you say stood with S. C. Caudill ever preferred and charges against Robert Blair for doctrine, and if so, tell the Court what doctrine it was.

A. It showed there at that time after the doctrine that J. W. Fairchild claimed that he reached and held forth that Elder R. Blair, Peter Adkins and S. G. Fairchild was excluded from the Church.

Q. Mr. Caudill, you do not answer my question. I will ask you now to state to the Court whether or not that that Church ever made any reference or allegation against Robert Blair prior to the May meeting, 1896, or at the May meeting, 1896?

A. Never made any as I know of prior to the May meeting, 1896. At the May meeting it shows that you withdrew from the Church. No, sir, it does not show any at that meeting, but it goes on and says that "By the advice of Elder S. C. Caudill agreed to bear with the brethren that withdrew till our next meeting."

Q. Do you know how many members there were of the Sandlick Church at the May meeting in 1896?

A. I do not.

Do you know how many stood with Elder S. C. Caudill, as you have before said?

A. I do not know, but all that were there except three stood with him.

Q. Can you give the names of the ones that stood with him?

A. I cannot give the names of all of them.

Q. You stated yesterday on direct examination that Peter Adkins was elected moderator for that day. I will now ask you upon whose motion he was elected moderator for the day at the May meeting, 1896?

A. I don't remember.

Q. By way of refreshing your memory I will ask you if it wasn't upon motion of Elder S. C. Caudill and seconded by L. F. Adkins?

A. It may have been. I can't say.

Q. I will ask you if according to that election if Peter Adkins didn't, as moderator of the Church, seat the Church?

A. He was moderator, but I can't say he was elected; whether

it was an election or chosen by the Church. He was standing moderator for the day.

Q. Was the question as to whether he should stand as moderator for the day put before the Church and a vote taken on the question?

A. I can't say whether it was or not, but he stood as moderator, or was chosen to stand.

Q. I will ask you if the Church, when called to a seat by Peter Adkins, as moderator, didn't say by their action that they was in full love and fellowship with each other?

A. They was in full fellowship.

Q. What was the next thing then done on that occasion after they answered in fellowship one with the other?

A. They was in full fellowship.

Q. What was the next thing then done on that occasion after they answered in fellowship one with the other?

A. I would just have to tell you what the record shows. The next thing that was done was a motion made by L. F. Adkins that the Articles of Faith be read.

Q. Was the Articles of Faith read that the Church was governed under then?

A. I suppose so, that is my recollection.

Q. Which one of the articles of faith was read at that time; that is, was it the one the Church was constituted on in 1815, or the one that was adopted in 1885 by the Sandlick Church?

A. I reckon it was the Article of Faith that the Church was being governed by at that time.

Q. Which one of those articles was it being governed by at that time?

A. I don't know.

Q. Which one of the articles of faith have you been and those associated with you being governed by now?

A. We are being governed by the Articles of Faith of the Indian Bottom Association.

Q. Have you since the division in 1895 made an order in the Church adopted a different article of faith than that which the Church was governed under in the year 1896?

A. We have not.

Q. I believe you tell the Court you are now governed under an Article of Faith of the Indian Bottom Association. Is that the Article of Faith that the Annual Union Meeting adopted which changed its name to the Indian Bottom Association?

A. I don't know what articles of faith that was. It was the same as ours. We just went ahead with the articles of faith that Sam Caudill left. They are the same as the Indian Bottom Association; they are the same in meaning, but the wording may be a little different.

Q. I will ask you if, in the article of faith filed in this action and referred to as an exhibit in the pleadings as the articles of faith that the Sandlick Church was constituted on is not the same article of faith adopted by the annual union meeting and the Indian Bottom Association?

A. I told you a while ago that I didn't know anything about the articles of faith of the Annual Union Meeting.

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Q. Then if Sam Caudill was governed by the Articles of Faith of the Sandlick Church that was adopted in 1885 by the Sandlick Church, is that the same article of faith that you are now governed by and willing to be governed by?

A. I don't know what the Article of Faith was in 1885. No, it is not it, the way I understand it, though it is worded pretty much like ours. I never seen that article of faith before in my life.

Q. I will now hand you a printed minute of the association with the Article of Faith printed in it that was adopted by the Sandlick Church in the year 1885, and will ask you to tell the Court whether or not you ever saw or ever read that article of faith before until today.

(Plaintiff objects and excepts to the above question and any answer thereto, because there is nothing in the record and nothing on the minute presented to show that the Article of Faith in this minute was ever adopted by the Sandlick Church.)

A. If I ever saw or read it I have no recollection of it. I see one man here named David Sexton. I never knew of him belonging to the Sandlick Church until after the split.

Q. I will now hand you the exhibit referred to in the answer of the Defendants as the Articles of Faith of the Sandlick Church adopted in the year 1885, and get you to tell the Court whether or not you ever saw that article of faith or read it until today?

(Plaintiffs object and excepts to the above question and any answer thereto, because the exhibit presented shows it is a minute of the Sandlick Church Association for the year 1915 and not for the year 1885, and there is nothing to show that the said minute presented as an exhibit contains the articles of faith adopted by the Sandlick Church in 1885, and upon this we pray the judgment of Court.)

A. If I ever saw this article of faith in here I don't remember, and if ever I read it I don't remember.

Q. Do you know whether or not that is a correct copy of the Article of Faith of the Sandlick Church as adopted in the year 1885?

A. I don't know.

Q. Then, if I understand you, that if this is the Article of Faith of the Sandlick Association and the one that was adopted by the Sandlick Church in 1885, and the one under which the Sandlick Church was governed in the year 1896, you are not willing to be governed by it now, are you?

A. If it is the same article of faith as ours I am, and if not, I am not.

Q. I will get you to take this exhibit and examine it and see whether it is the same as your article of faith.

A. In substance some of it is.

Q. Is it all?

A. I have not studied it all, but I believe that it is.

Q. Have you got an article of faith spread at large on your records as the Articles of Faith of the Sandlick Church, which you claim to belong to?

A. We have not.

Q. Have you got any article of faith of record by which the

Church you claim to belong to is governed by?

A. We have not got it on our record. We have taken up the record that was left by S. C. Caudill and the articles of faith wasn't on it.

Q. Then did you at any time ever try to get hold of the Articles of Faith of the Sandlick Church that it was governed under in the year 1896, before the institution of this suit?

A. No. We never tried to get any only what we had.

Q. Have you got any Articles of Faith of the Sandlick Church?

A. We have got a minute that has got the Article of Faith in it.

Q. Minutes of what?

A. Minutes of the Association that had the articles of faith in it.

Q. What association?

A. I have minutes of the Sandlick Association; also minutes of the Indian Bottom Association.

Q. Have you got the Articles of Faith of the Sandlick Church in them?

A. They have.

Q. What date are those minutes you say you have that have got the Articles of Faith of the Sandlick Church in them?

A. One of them, as I remember, is 1869, that is Sandlick.

Q. Will you please file that minute and refer to same and make it a part of your deposition and hereafter deliver the same to the stenographer before the trial of this case?

A. I have not got it here, the Sandlick Association. The one I have I don't know whether all the articles are in it.

Q. Will you file the minute that you refer to with that article of faith there is in it?

A. I can file what I have, but it is nearly word for word the way your minutes are; the one you gave me a while back.

Q. I will ask you to tell the Court whether or not you have read the Article of Faith that was in the minute of the Sandlick Association in 1869?

A. That is my recollection that is the date.

Q. Then if that is the same article of faith as the one exhibited here and referred to in Defendant's answer and which I have been asking you about, you have read the articles of faith heretofore have you not?

A. If it is the same, I have read the article of faith in the minutes of 1889, if that is the date. And if it contains all the articles of faith.

Q. I see you charge in your petition that at the May meeting, 1896, that Robert Blair and S. G. Fairchild and Peter Adkins absented themselves from the Sandlick Church and left the Church house while the business of the Church was being conducted, and went to another point and place and organized themselves into a body. I will ask you if Peter Adkins, Robert Blair and S. G. Fairchild didn't stay there in the house at that time until the congregation was dismissed and didn't Robert Blair, there in the house, announce to the people and to the Church that the Church would meet at the home of Robert Blair to complete the work of the day that evening at 4 o'clock?

A. Robert Blair, Peter Adkins, Steve Fairchild did absent themselves from the Church and S. C. Caudill taken charge of the body

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and I didn't pay any notice to them other parties or what they were doing. I was looking at what was going on in the Church, what the business of the Church was.

Q. Now, Mr. Caudill, don't you know it to be a fact that when Joe Fairchild made the remark that you say he did in your deposition in chief, when he said Sam Caudill wouldn't fellowship the doctrine he preached, I will ask you if Robert Blair didn't arise as a member of the Church and ask the Sandlick Church to take charge of Brother Caudill and send a committee to the Church where Joe Fairchild's membership was in Rowan County and ask that Church to take charge of Fairchild and require them to take the gospel steps with each other and make a reconciliation?

A. I don't know it to be a fact, and if you made the statements there that you say you did, I don't remember it.

Q. I will ask you if immediately after the proposition that Brother S. C. Caudill didn't raise up in his seat in the pulpit and remark in the presence of the body that he didn't have aught in the world against Brother Fairchild?

A. If he did I don't remember it.

Q. I will ask you if Robert Blair then didn't make the motion to take the voice of the Church as to whether the Sandlick Church considered Joe Fairchild of the same faith and order of the Sandlick Church or not?

A. If he did I don't remember hearing any such.

Q. I will ask you if that motion was not seconded, and if Peter Adkins as moderator of the Church, didn't put that question to the house and the house voted on it?

A. Not that I remember of.

Q. I will ask you if that wasn't the question that was put to the body and the vote taken when the members that stood with Elder S. C. Caudill voted that they did not consider him of the same faith and order and Robert Blair and S. G. Fairchilds and Peter Adkins voted to consider him of the same faith and order?

A. My recollection is about it the doctrine of J. W. Fairchild claimed to hold forth that S. C. Caudill objected to said doctrine and that Peter Adkins, if I am not mistaken, quit the stand and the way I remember it it was moved and seconded that S. C. Caudill, moderator, take the stand, and they then taken the vote and Robert Blair, S. G. Fairchild and Uncle Peter Adkins absented themselves from the Church and the body that was with Sam sustained S. C. Caudill's motion on it, is the way I remember it.

Q. By the way of refreshing your memory I will ask you if it is not a fact that when the motion was put by Peter Adkins as moderator of the day as to whether they considered Joe Fairchild of the same faith and order if that vote wasn't taken while Peter Adkins was standing as moderator?

A. It may have been part of the vote. You and Steve Fairchild did withdraw, and Uncle Peter, after they withdrew, he sustained the same doctrine that Rob and Steve did.

Q. Did you tell the Court that there was a motion made and a vote taken on that occasion by the Sandlick Church as to whether or not they believed the doctrine that Joe Fairchild preached?

A. I believe there was, but I can't be positive who made the motion.

Q. Now I will ask you if it isn't a fact that when the vote was taken as to whether or not we considered Joe Fairchild of the same faith and order and Sam Caudill and those voting with him didn't vote to consider him not of the same faith and order, and then Peter Adkins remarked, after being asked by Steve Fairchild, to know where he stood on the question, and after he had voted on the question if he didn't announce there and then to the Church that owing to the action they had taken and the confusion in the body, that he couldn't go any further with the work of the Church, and taken his seat?

A. Steve Fairchild and Robert Blair, they sustained the doctrine that J. W. Fairchild preached, and I don't know what Uncle Peter said. I don't remember but he did take his seat and sustained the doctrine that Joe Fairchild preached.

Q. Didn't he then and there rule the body in disorder as moderator?

A. If he did I don't remember.

Q. Do you know what Church Joe Fairchild belonged to at that time?

A. I do not.

Q. Is it the usage and custom of Baptists when they give a member of the Church a letter of dismission to still hold them in their body until they join another Church of the same faith and order of the Church which gives the letter?

A. So far as I know about it they have control over them that they grant a letter to until they put their letter in some other Church of the same faith and order.

Q. Then if Joe Fairchild had been dismissed from the Sandlick Church by letter and had joined another Church of a different faith and order, isn't it the custom and usage of the Baptists to prefer charges against them and deal with them gospelly for so doing?

A. As far as I know that is the rule.

Q. Then I will ask you if according to the Baptist usages and customs, if any member or set of members has a right to vote and abruptly declare that another member not of the same faith and order without preferring charges and dealing with them according to gospel usage?

A. The way I understand it, each Church has a right to transact its business according to the way they see fit.

Q. Then according to your construction of the Baptist usage is that if a majority of the members desire to declare another member of a different faith and order from them, they would have the right to do so without first pointing out to him his error. Is that right?

A. I think the whole body has to try the cases. One man has to prefer the charge and the whole body had to settle the matter by majority.

Q. Has that body a right to take the matter up after one member has preferred the charge according to Baptist usage until that member that prefers the charge had went and pointed out the error of the brother; and if the erring brother didn't hear him then take with him one or two more witnesses and point out his error to the brother again, and didn't this have to be done before that

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brother would have a right to bring it into the body?

A. When a single person that way gets offended at a brother and goes and talks with him about it, and if they fail to agree and they take another with them and talk about it, then if they fail to agree, take it to the Church and sometimes offenses arise right in the face of the Church where they don't have to take them steps, if I understand it, the Church has got a right to deal with them.

Q. Then if I understand you, you mean to say the Church excluded the member who fails to hear the Church, is that right, after the brother has taken the steps?

A. Yes, if he fails to acknowledge his wrong or errors that he has committed.

Q. I will ask you if according to the rules and regulations adopted by the Sandlick Church, if everything that is done by the Church by a majority except receiving and dismissing members, which must be done by unanimous voice?

A. I think so.

Q. I will get you to tell the Court the name of the members of the Church that say they stood with Elder S. C. Caudill at the May meeting in 1896.

A. Aunt Sally Adams (or Frazier, whichever you call her), Martha Adams, Letitia Holcomb. I think Polly Ann Craft was there. I won't be positive; S. J. Caudill, L. F. Adkins. That is about all I remember at this time. And S. C. Caudill was there.

Q. Do you remember Eli Brown being there?

A. I believe that Eli and his wife were both there. I won't say about his wife, but I think Eli was there.

Q. Where is Sarah Frazier now, if you know.

A. She is dead.

Q. Where is Letitia Holcomb, if you know.

A. She is dead.

Q. S. J. Caudill, where is he?

A. He is dead.

Q. Where is Eli Brown, if you know?

A. He is dead.

Q. Where is Sarah Brown, Eli Brown's wife, if you know.

A. She is dead.

Q. How many of the members that stood with Sam Caudill, as you claim, is there alive now, if you know, at the May meeting in 1896?

A. I don't remember of but three that was there.

Q. What three is that?

A. L. F. Adkins is alive yet, so far as I know; Polly Ann Craft and Mary Adams, Uncle Steve Adams' widow; it is Mary or Martha.

Q. Where is Lewis Adkins at now; L. F. Adkins, if you know?

A. I don't know.

Q. I will ask you if he didn't abandon his wife and infant children and leave this country something like 15 or 16 years ago?

(Plaintiff's object and excepts to the above question and any answer thereto, because same is irrelevant to the issues presented by the pleadings in this case and incompetent.)

A. I don't know only from information.

What is your information about that?

(Plaintiff objects and excepts because same is incompetent.)

A. My information is that he did.

Q. Is Martha Adams, or Mary Adams, the widow of Steve Adams, still a member of the Sandlick Church, as you have it organized?

A. She is not.

Q. Was she ever given a letter of dismissal by Elder S. C. Caudill and those identified with him after the May meeting in 1896?

A. I don't believe that she was. There is no record to that effect.

Q. Do you know where her membership is now?

A. I know where it is said to be. Said to be in Big Cowan Church.

Q. Do you know whether the Sandlick Church and the Big Cowan Church was in fellowship with each other or in correspondence with each other in the year 1896?

A. I don't know.

Q. What is your information as to that?

(Plaintiff objects and excepts because same is incompetent. Defendant withdraws question.)

Q. Then, if I understand you, you don't know much about the condition of the Sandlick Church prior to the date of the May meeting, 1896, as to what churches and associations she was in fellowship with, are you?

(Plaintiffs object and excepts to the above question and any answer thereto, because same is incompetent.)

A. I knew a right smart at that time, but I have forgotten. I could not state positively what churches she was in correspondence with.

Q. You do know she was in correspondence with the Sandlick Association at that time, don't you?

A. Yes, sir. Tried to be.

Q. You speak of Robert Blair and Peter Adkins and S. G. Fairchild in the May meeting in 1896, of absenting themselves from the Church. Will you please tell the Court just what they done and said upon that occasion, if you remember, that makes you think that they absented themselves from the Church?

A. The records I have filed here, I think, is as good evidence as I could give.

Q. I believe you state in your deposition you were present in the year 1895 when the reconciliation was made, spoken of in the pleading. Am I right about that?

A. You are not right about it in the way you ask the question.

Q. You wasn't present when the reconciliation was made?

A. There was no reconciliation made in 1895.

Q. 1905?

A. I was present, yes, sir.

Q. Did you take any hand in the reconciliation?

A. I did not.

Q. Do you remember hearing the record read on that occasion that was made at the regular meeting time the month just before that?

A. I do not.

Q. In your direct examination you said on that occasion there was some caucusing around. I will ask you to tell the Court who engaged in that caucus, if you remember. Was it the members of the Sandlick Church that stood with Elder S. C. Caudill, or a portion of them, and those that stood with Robert Blair and Peter Adkins that you noticed talking together?

A. I spoke of that, and the way I understand it, both sides were causing a right smart.

Q. Then would they seem to go together and caucus together?

A. No, sir. I think it was a separate caucus.

Q. Did that caucus you noticed take place in the church house or out on the yard?

A. Part of it was on the outside and part of it on the inside, if I remember right.

Q. You said yesterday you supposed that they put Joe Hall up as moderator. When you say "they," who do you mean?

A. I mean Rob Blair and his faction, and it may have been satisfactory to the others, I can't say as to that.

Q. Don't you know that Joe Hall was present at the May meeting in 1896 and went and took a seat with the brothers and sisters that stood with Elder S. C. Caudill, and that him and Elder S. C. Caudill stood together up until after this reconciliation was made?

A. I know that Joe Hall took his seat with S. C. Caudill and I didn't hear any trouble betwixt them until they claimed that this reconciliation was made, but saw my brother Sam in a short time after they claimed it was made, and brother Sam claimed that Joe Hall had acted a traitor with him.

Q. Now, Mr. Caudill, you don't know what the agreement was there in the year 1905 between the members of the Sandlick Church that was present as to the reconciliation.

A. I don't think they come on any agreement.

Q. I will ask you if the entire body of the members of the Church didn't agree on Joe Hall to get up first and state the object of the meeting?

A. Joe Hall did get up and state the object of the meeting.

Q. Then, I will ask you, after stating the object of the meeting, if it wasn't announced there publicly to all the members of the Church that was present that was willing to come together and to forgive each other of all the hard things they had said or done against each other and was willing to come together and come to another's feet and live as become of the Saints of God to come forward and take seats on two benches that was prepared for that purpose?

A. Joe Hall made just about such a statement as to that of the Church, but it wasn't in the way that S. C. Caudill directed Joe Hall to get the brethren and sisters together. S. C. Caudill told me that he told Joe Hall to organize the Church, that is, to seat the Church, and then bring them to him and make their acknowledgements there to him for the way they had served him and for the doctrine they were preaching. He further said that his part of the members had nothing to acknowledge to.

Q. You don't tell the Court that wasn't the agreement that was made by the two factions that were there present that day, do you?

A. I tell the Court that it wasn't the agreement that was made with all of them.

Q. I will ask you in obedience to that statement made by Joe Hall if all the members on both sides that were present on that occasion didn't take seats together and manifest the fellowship and acknowledge it to each other by the extending to each other the right hand of fellowship?

A. The only acknowledgement that I heard from any of them was from Uncle Jesse Holbrook. He agreed to be governed by the Articles of Faith that the Sandlick Church was established on, or held to, and wanted to live in the Church they had before the separation. If there was any extending of the right hand of fellowship, I never saw it.

Q. Was Jesse Holbrook a member of the Sandlick Church at that time?

A. He wasn't a member of Sam's side, but I notice your record shows that he was a member. That is the way Steve's deposition shows it, is my recollection.

Q. Don't you know that Jesse Holbrook was a member of the Millstone Church in the year 1896, and that they excluded him from the fellowship of the Church because he said that he never heard Rob Blair preach the doctrine they accused him of preaching?

(Plaintiffs object and excepts to the above question and any answer thereto, because same is irrelevant and incompetent.)

A. My understanding was that Uncle Jesse Holbrook belonged to the Millstone Church before this split, and if he was ever excluded I never heard of it before, as I now remember.

(Plaintiffs objects to the attorney for Defendants suggesting to the witness what had been done in the Millstone Church and thereby endeavoring to suggest to the witness the answer he should make to this question).

Q. Now, Brother Caudill, don't you know that on the day of the reconciliation that it was so announced, and by a move and second before the body and unanimously agreed to by all that the Church and those that were there were to receive all the baptized members that had been received into both factions of the Church from the time of the division up to that time?

A. I never heard of any such as that, and that would be outside the Regular Baptist usage and practice to take in members that were baptized in another faith and order.

Q. Don't you know that in that agreement there and that was what was being spoke about in reference to Jesse Holbrook being received back into the Millstone Church, when Jesse Holbrook made the remark you say he did?

(Plaintiffs object and excepts to the above question and any answer thereto, because same is incompetent.)

A. There was nothing said about Uncle Jesse Holbrook being excluded from the Church there at that time, and I didn't know he was excluded. And, furthermore, there was things claimed to be done there that the record showed next morning when they brought it in to what had passed. I wasn't there the next day, but I heard my wife tell how they read the record.

Q. All you know, then, about the record, is what your wife told you next morning?

A. That is all I knowed at that time, but I found out a lot since that was the way she told me.

Q. Now, Uncle Watson, isn't it a fact that immediately after the announcement was made by Joe Hall that the object of the meeting and the statements above that I have asked you made by Joe Hall having been made, if there was not a move made and a second and put to the body as it was then together, to elect Joe Hall moderator for the day, which was done?

A. I didn't hear it if it was.

Q. Was you at the meeting the next regular meeting time after that at the Sandlick Church House?

A. I can't say, but I may have been. I don't remember.

Q. Was Sabrina Caudill present at the next meeting after this reconciliation?

A. I don't remember whether she was or not.

Q. Do you know whether she was present the day the reconciliation was made, or claimed to have been made?

A. She was present.

Q. Was your brother, S. J. Caudill, there.

A. Yes sir.

Q. Was Sarah Frazier there?

A. I don't remember whether she was or not.

Q. Was Polly Jenkins there?

A. I don't remember.

Q. Was Martha or Mary Adams, the widow of Steve Adams, there?

A. I don't remember.

Q. Was Polly Ann Craft there?

A. I don't hardly believe she was, but she might have been.

Q. Say you don't remember whether you was present at the next meeting after that?

A. No. There was no one there that I remember.

Q. Was you present when the vote was taken to elect Joe Hall assistant moderator after the reconciliation was made until Sam Caudill got able to attend the Church?

A. I may have been, if there was such a thing done as that.

Q. Was you ever at the Sandlick Church House after the reconciliation should have been made when the Church was in session? And if so, about how many times?

A. Yes, I was there while it was in session there several times after that. At one time I was there and we heard that J. D. Caudill was to be there, and he was the assistant pastor of the Sandlick Church, and myself and wife went out to church and when we went brother Rob begun the preaching, and the way I heard it he was throwing a whole lot on my wife the way she had been acting by not attending and filling her seat. I took it to be from his discourse that that was the one he was hinting on, and after he got through Uncle Peter Adkins attended to the church work and give the privilege to any one of them that had been excluded from the Church that they had now the opportunity to come back and make their acknowledgments, and later on I heard my wife had

been excluded from the Church. We didn't know it at that time.

Q. Now, Brother Caudill, I will ask you if you don't know it to be a fact that all the members of the Church that was alive at the next meeting after the reconciliation who had stood with Elder S. C. Caudill, met at the church house on the land in dispute herein and all together elected Joe Hall assistant moderator of the Church until Elder S. C. Caudill got able to attend the Church?

A. I don't know it to be a fact.

Q. I will ask you if Sabrina Caudill, one of the Plaintiffs in this action, and Polly Ann Craft, wasn't present at the next meeting and seated with us all together at the next meeting?

A. I can't state that they were.

Q. Can you state that they were not?

A. I can not.

Q. How long was it after the reconciliation that you say that you and your wife visited the Church when you understood that she had been excluded?

A. Some time after. I don't remember exactly what time.

Q. Can you tell about how often she visited the Church after the reconciliation was made until she was excluded, if excluded at all?

A. If there was any reconciliation she didn't visit it very often.

Q. I see you state in your petition that Robert Blair and Peter Adkins had departed from the Article of Faith of the Sandlick Church and had promulgated and preached and held out to the public an entirely new doctrine which was not embraced in the said Articles of Faith of the said Sandlick Church. I will get you to tell the Court what doctrine that is entirely new that is not embraced in the Articles of Faith of the Sandlick Church?

A. That doctrine of absolute predestination of all things and the vital unity or whatever you call it, of God and His people and part of the Adamic race is decreed to hell and part to be saved.

Q. Did you ever hear Robert Blair preach that a part of the human family was decreed to hell and part to Heaven, and if so, where at?

A. As I told you in the foregoing deposition, I never heard Robert Blair preach but mighty little, but I have heard him argue such stuff in common conversation.

Q. What do you mean by "stuff?"

A. I call such doctrine as that "stuff."

Q. Did you ever hear Robert Blair say that he believed that a part of the natural human family was decreed for the lake and part for Heaven?

A. I don't know as I heard him say it in that language, but in substance I have heard him say pretty much the same.

Q. Don't you know, and haven't you heard, Robert Blair say in the pulpit that he was accused of that doctrine and that it was one of the Devil's lies and his agents were peddling it out for him.

A. I never heard Rob Blair in the pulpit preach anything about that in the pulpit, for I never heard him much.

Q. Wasn't you present on Sunday morning at the funeral of Robert Blair's mother, in the opening of the service, use the language above quoted?

A. I was present when Robert Blair opened the services above stated, and I don't remember him using such language.

Q. Do you know what the word "absolute" means?

A. I can't give it just as it is.

Q. Do you know what the word "predestinate" means?

A. I can't give you a correct answer to that. I have an idea what it means, but I can't define it.

Q. Do you know what the word "eternal" means?

A. Not scholar enough to define it.

Q. Do you know what the word "vital" means?

A. No. I can't define it.

Q. Do you know what the word "unity" means?

A. I can't tell it. I can't quote the definitions as they are.

Q. You say in your amended petition that after the adoption of the Articles of Faith the same was construed by the ministers of said Church and the members thereof as holding and supporting the following doctrine and faith, to-wit: Which Article of Faith do you mean, the one which the Church was constituted on, or the one adopted in 1885 by the Sandlick Church?

(Plaintiffs object and excepts to the above question and any answer thereto, because the same does not show what Article of Faith is referred to or what part of the pleadings he is quoting from.)

A. I don't see as there is much difference in the one the Church was constituted on and the other one he spoke of. They differ in the reading some, but the meaning, I think, is very near the same.

Q. I will now hand you the copy of the Articles of Faith upon which the Church was constituted on, and ask you to refer to the 14th item and tell the Court whether or not that item then is in the one referred to in Defendant's answer as being the Articles of Faith of the Sandlick Church that the Church was governed under in May, 1896?

A. No. That is not the Article of Faith, and it is not in ours, either.

Q. I will ask you to tell the Court whether or not you and those associated with you are governed by the Article of Faith of the Sandlick Church, adopted in the year 1885, or not?

A. I don't see any objection to that Article of Faith as you presented it. It is shorter in some things than ours, but I think the meaning is about the same as far as it goes.

Q. The question is, are you and your associates now, as you have the Church organized by, and under the Article of Faith that the Church adopted in the year 1885, or are you governed by another Article of Faith?

A. I don't see how I can answer any plainer than I have already. I have told you they were a little different in reading, but all about the same.

Q. Have you and your associates, or any of them, by an order of the Church, adopted any Article of Faith by which to be governed by since the year 1896?

A. We have not. We are going on the same Articles of Faith Brother Sam C. Caudill was governed by when he was pastor of the Church, is all I know about it.

Q. And is that the Article of Faith that you have reference to in your amended petition when you say that after the adoption of said Article of Faith the same was construed by the ministers of said Church and the members thereof, as holding and supporting the following doctrine and faith, to-wit:

A. I mean the Article of Faith that Brother S. C. Caudill was governed under in the year 1896.

Q. I see in your amended petition you state here that the ministers and members of the Church construed the Article of Faith of said Church first that Christ died for the sins of the whole world. That by his death and resurrection it was made possible for every person to be saved who would come upon the terms of the gospel and that every adult sane person who was born into the world would be visited by the powers of the Holy Ghost in some way so as to be shown that they were sinners, and if that person would truly repent of their sins that it was possible for them to obtain a pardon and free remission of their sins, but that the pardon of their sins would come to them after repentance. I will now get you to tell the Court when the ministers and members of the Sandlick Church, and which ones of them, construed that Article of Faith as sustaining that doctrine?

A. All of them as I knew of, Sam Caudill did, Uncle Jim Caudill did when he was assistant moderator, John A. Caudill, my father, did. B. E. Caudill used to preach such doctrine as that. That is old Regular Baptist doctrine. Brother Joe Hall preached it.

Q. How long has it been since you heard them construe this Article of Faith of the Sandlick Church that the Sandlick Church was governed under in the year 1896, before that date?

A. When I was old enough to know anything about preaching at all. All the old preachers that I heard preach from the time that I can remember preached and construed that doctrine, down until I commence hearing Uncle Peter Adkins preach, and he preached a little strange doctrine to that, I couldn't understand his meaning on it.

Q. What I mean to ask you is, was there ever any order by the Sandlick Church stating that this Article of Faith which you say the Church was governed under in the year 1896 made in the Church construing this Article of Faith to contain that doctrine?

(Plaintiff objects to this question and excepts to any answer thereto, because this question does not mean the same as the question above asked, and we object to the misconduct of counsel for Defendants in asking questions for the purpose of confusing the mind of the witness and misleading him as to the meaning and intent of the question asked.)

(Defendants object and except to the statement of counsel for Plaintiff, because there has been no misconduct of the attorney for Defendants, and because the Plaintiff's attorney wants to show himself smart and make out as though counsel was trying to mislead the witness, when in truth and fact he is the one that is attempting to lead the witness.)

Q. I will ask you if you don't know it to be a fact that this present Article of Faith that the Sandlick Church was governed under in the year 1896 never was adopted by the Sandlick Church until the year 1885?

A. No. I don't know it.

Q. Don't you know that you testified to this that you never had saw nor read this article until today?

A. I didn't know you had the 1885 Articles of Faith copied in the 1915 minutes. That is the reason I said I had never seen or never read it.

Q. Now, do you mean to convey the idea to the Court that the Sandlick Church and the ministers of the Sandlick Church construed that Article of Faith before it was adopted by the Church, or afterward?

A. They construed it after they adopted it, of course, if they ever did construe it.

Q. Then you don't know whether your father ever saw this Article of Faith, do you?

A. My father never saw that Article of Faith, for he was dead when that Article of Faith was printed.

Q. What ordained elders belonged to the Sandlick Church, if you know, in the year 1885?

A. I don't know how far back it has been since S. C. Caudill was ordained, and I don't know how far back it has been since Uncle Peter Adkins was ordained. I have no record to go by to show when they were ordained nor when they were appointed or joined this Church.

Q. Can you give the names of the elders who you know of, their membership being in the Sandlick Church, from the year 1885 up to the year 1896?

A. S. C. Caudill, Peter Adkins, J. W. Fairchilds and Robert Blair, is my recollection. I don't remember of any others at this present time.

Q. Did you ever hear Roebert Blair construe the Article of Faith adopted in the year 1885 as supporting the doctrine before mentioned as set up in your amended petition?

A. I don't remember Robert Blair construe any doctrine to amount to anything, or any Articles of Faith. I never heard him preach but mighty little.

Q. Did you ever hear Elder Peter Adkins construe the Articles of Faith adopted by the Church in 1885 as supporting said doctrine?

A. Yes. I have heard him preach on the Articles of Faith.

Q. Did he preach that the Articles of Faith adopted then supported the doctrine as mentioned in your amended petition?

A. He claimed in his preaching that it did not support it.

Q. Did you ever hear him say anything about the Article of Faith in his preaching?

A. Yes, sir.

Q. Did you ever hear Joe Fairchild in his preaching say that the Articles of Faith as adopted in the year 1885 supported the doctrine as mentioned a while ago as being set out in your amended petition?

A. I never did.

Q. Did you ever hear any of the Elders of the Sandlick Church construe said Articles of Faith as supporting said doctrine except S. C. Caudill?

A. Lewis Adkins did, but I reckon he was not an ordained

preacher.

Q. I will ask you if L. F. Adkins, the person whom you speak of, wasn't asked by Robert Blair on the day of the trouble in 1896, if he didn't tell him, that is, Adkins didn't tell Blair, that he believed in the doctrine of absolute predestination of all things, and did not actually then and there say that he did?

A. I did not hear any such statements.

Q. I see you allege in your amended petition filed in this case February 7, 1916, that prior to the preaching of the doctrine of the said Robert Blair, Peter Adkins and Joe Fairchild, the Sandlick Church believed that every person who was born in the world was possessed at the date of their birth of an immortal and never-dying soul which was to be saved or to be lost? I want you to explain to the Court if the salvation of that immortal soul in eternity depends upon what the soul can do, or does do?

(Plaintiff by counsel objects to the foregoing question and excepts to any answer thereto because the issue in this case does not depend upon what the witness individually believes, but depends upon the faith and beliefs of the Sandlick Church as the same was preached and promulgated by its ministers and believed in by the Church. Further, because the pleadings does not make it an issue in that connection as to how the soul can be saved, but only makes the issues as to whether or not the individual has a soul from the date of his birth to the date of his death.)

By Robert Blair:

I will now get you to tell the Court whether or not that the Sandlick Church prior to the date of May, 1896, believed that each human being that was born into the world possessed an immortal soul to be saved or to be lost?

(Plaintiff by counsel objects to this question because the counsel for Defendant adopts a different time from that stated in the pleading which he quotes at which the Sandlick Church believed as stated.)

A. I don't know what the Sandlick Church in 1896 believed on that subject more than from their action.

Q. Do you know whether or not the Sandlick Church or any members of it prior to the year 1896 believed or advocated that the Articles of Faith of said Church or either supported the doctrine that the immortal soul that the person possessed of ever committed sin?

A. That has got me in a place that I can't understand it exactly. You are getting me back there before the split up, and I can't tell what the Sandlick Church believed. Some believed one way and some another.

Q. Do you and your associates as you now have the Church organized, believe that the immortal soul which you speak of in your pleadings, as being in every human being, commits sin or do you believe that it is the person that does the sinning?

A. I believe that everybody sins. After a person has been regenerated and born again I think the soul is all right.

Q. What I mean to ask you is this: Do you and your associates in the Sandlick Church, as you have it organized, believe that that

immortal soul that the individual has actually committed sin itself and becomes a sinner before God, or not?

A. We believe, or I do, that every man has a soul to be saved or lost, and as I said a while ago, that when a soul was regenerated and born again that I didn't believe that soul sinned any more.

Q. What I mean to ask you is this: You say in your pleading here that every person that is born into the world has an immortal soul to be saved or to be lost. What I want to know is, do you and your associates believe that that immortal soul in the individual commits sin?

A. I can't tell you what they believe, but I believe that a soul could be saved or lost, and after it was regenerated and born again that soul would be saved and without a change I don't think it could be saved.

Q. Do you believe that that immortal soul ever commits sin?

A. I could not answer that question for I am not posted well enough to know.

Q. Now, do you believe, you and your associates, that there is an immortal body outside of the body of the Lord Jesus Christ?

A. You have got me in a place that I can't answer.

[Not being time to complete the taking on today the further taking is adjourned until March 30, 1916, to be reconvened at the same place and for the same purpose stated in the caption. Met pursuant to adjournment and proceeded with the deposition of W. G. Caudill.]

Q. I see you have alleged in your amended petition that Sandlick Church prior to the preaching of Robert Blair, Peter Adkins and J. W. Fairchild, that the Sandlick Church believed and preached that every person that was born into the world was possessed at the date of their birth of an immortal soul, which was to be saved or lost, and while that person was possessed of that immortal soul the sins of that soul could be pardoned and it was a saved creature. I will now get you to tell the Court what minister or elder of the Sandlick Church it was that preached that doctrine?

A. I have heard S. C. Caudill preach it.

Q. When did you hear him preach that?

A. The way I understand it, I have heard him preach something similar to that all the way along when I have heard him preach. I may not understand that as thoroughly as I ought to.

Q. When was it, with reference to the time that Peter Adkins became a member of the Sandlick Church, did you hear him preach this doctrine; was it before or after Adkins became a member of the Sandlick Church?

A. I don't remember when Adkins became a member of the Sandlick Church, but I have heard S. C. Caudill preach that doctrine all the way along since he commenced preaching.

Q. If you cannot tell when Peter Adkins became a member of the Church, how can you tell the Court that Sam Caudill preached this doctrine you speak of before Peter Adkins commenced preaching in said Church?

A. I didn't say that. If I said before Uncle Peter poined the Church I didn't mean it, and I don't remember when he joined the Church and I don't know when S. C. Caudill joined the Church. I

don't know when he commenced preaching, for I have got no record to show.

Q. Did you ever hear Sam Caudill preach before Robert Blair and Peter Adkins and J. W. Fairchild was authorized to preach in the Sandlick Church that the immortal soul could be pardoned of its sins and be a saved creature?

A. I told you a while ago that I didn't know when Peter Adkins joined the Church, but I have heard S. C. Caudill preach before J. W. Fairchild or Robert Blair joined the Church, and the way I understood his preaching was that the soul could be saved or lost, and when a person was regenerated and born again that soul was saved, and if not, the soul would be lost. That is the way I understood it was that the soul could sin, or the spirit, until it was regenerated and born again.

Q. Did he preach, believe and advocate the doctrine that that immortal soul you speak of in the man was what was regenerated and born again?

A. That was what I understood it, that the soul of man was.

Q. Did he preach and advocate the doctrine that the immortal soul in the individual was what repented of its sin?

A. The soul of man is what repents, if I understand it.

Q. Do you mean to convey the idea then that he preached and advocated the doctrine that the immortal soul that you say was in every person at the date of their birth was what was regenerated and born again and was what committed the sin and was the thing that repented of its sins and was the thing that was to be saved or lost. Is that the doctrine you understood him to preach and to advocate?

A. If I understand anything about it, that is the way I understood it.

Q. Did you ever hear Sam Caudill preach or advocate the doctrine that when a righteous person whose soul had been pardoned of its sins died, that the soul or immortal part of that person would be in a state of paradise, and at date of the general resurrection that soul would be clothed with a body of immortality and ascend to Heaven and enter into the glory of the Father and be eternally housed in the Kingdom of God?

A. The best that I can understand it and the way that I understand, he did.

Q. I see in your amended petition you allege that Robert Blair and his associates, prior to the year 1896, preached and advocated the doctrine that the spiritual or immortal part of man and the natural body united, they became one inseparable person. I will get you to tell the Court where and when you ever heard Robert Blair or either of them preach such doctrine, or any other associates?

A. I speak of his associates; nearly every time I heard them preach before that split; that is the way I understood them to preach.

Q. Who do you mean by his associates?

A. Jim Hall, Peter Adkins, Wilson Church, Thomas Kelley, J. W. Fairchild, and a man by the name of Allen. I don't know his name.

Q. Now, Uncle Watson, don't you know that they have always preached and advocated the doctrine that when the person died

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that the spirit returned to God who gave it, and the body to the grave?

A. I have heard them preach such doctrine as that.

Q. Did you ever hear Robert Blair or Peter Adkins or Joe Fairchild, or the ones you say are their associates, preach the doctrine that when the person died that that person went or goes to the grave and remains there, both the spiritual and natural part of said person, until the day of the general resurrection? If so, please tell which ones you heard preach it and where you have heard them preach it at?

Q. Now, you say in your amended petition that the Sandlick Church and the Elders thereof, construed the doctrine of the Articles of Faith of said Church as supporting the doctrine that Christ died for the sins of the whole world. Now, do you mean by that phrase in the pleading that he died for the sins of the immortal soul of every individual that ever was or ever will be in the world, or do you mean that he died for the sins of the persons of Adam's race?

A. He died for the sins of Adam's race, as I understand it. He died for the sins of Adam's race or the world, which ever you want to call it.

Q. You also state in your amended petition that by his death and resurrection it was made possible for every person to be saved who would come upon the terms of the gospel. Now, do you mean to say that the persons spoken of here in your pleadings is the immortal soul that you spoke about being regenerated and born again?

A. That is the way I understand it.

Q. Do you think by His death and resurrection it made it possible for anything to be saved except that immortal soul that the person is possessed of, and did the Elders of the Sandlick Church advocate that doctrine prior to the year 1896?

A. If I understand it, some of them did.

Q. Which ones of them?

A. S. C. Caudill, J. D. Caudill, and the visiting brethren that would come there.

Q. Now, I want to ask you if you mean in your amended petition to say that the immortal soul that was in every person would be visited by the power of the Holy Ghost in some way so as to be shown that it was a sinner?

A. Yes, sir.

Q. Is that the way that you understood Elder S. C. Caudill preach the doctrine before the year 1896?

A. Yes.

Q. You say in your amended petition that that immortal soul of that person whose soul had been pardoned of its sins died that that immortal soul goes to a place of paradise and remained there until the general resurrection, and then that that immortal soul would ascend to Heaven and enter into the glories of the Father and to be eternally housed in the Kingdom. Now, if that ascension of that immortal soul from the state of paradise to the Kingdom of God is the resurrection that you speak of?

A. Yes. I reckon it is as I understand it. I don't know that I understand it all.

Q. Do you mean to say that Elder Sam Caudill, prior to the date 1896, preacher that at the general resurrection that immortal soul of the individual would be resurrected and taken up to God and forever be with Him in His Kingdom?

A. Yes. If I understand the question, he preached it that way.

Q. Did Elder S. C. Caudill, prior to the year 1896, preach and advocate that that immortal soul that was in the person ever went to the grave?

A. As I understood him, it went to the God who gave it.

(At this point the Defendants object to the conduct of counsel for Plaintiffs in interrupting the witness and the counsel for the Defendants and by force over his objection of the counsel for the Defendant, in going back and reading questions prior asked to the witness in order to extort from the witness the answer they desire on said question.)

(At this point counsel for Plaintiffs avers that the only thing he did was simply to read the two last questions and answers, and he was absent from the room when they were written, and he just merely read the question and answer without any comment whatever, and he did not do that for the purpose of intimidating or disturbing the witness or the counsel for Defendants, and he did not intend to extort any other answer whatever from the witness and that he did not do anything that would disturb any reasonable minded man in the exercise of a reasonable judgment.)

(Joseph Hall, of counsel for Plaintiff, avers that from the question and answer of the witness, he believed the witness misunderstood the question and that the only thing he did or intended to do was to ask the notary public to again read the question to witness, the two last questions to the witness and explain them so that the witness could understand them. That he did not intend thereby to interrupt the witness, or in any wise disturb counsel for Defendants or extort from the witness any answer except the truth after he had understood the question and that the reason he himself read the question was because the stenographer asked him the question referred to and requested to be read again to the witness, and that he then looked at the question in order to find the question he had reference to and that he meant nothing improper in any way.)

(The attorney, Robert Blair, for Defendants, avers that after the witness was asked the question and had given the answer thereto, Joseph Hall, one of the Plaintiffs and attorney at law, arose from his seat and went to the table where the stenographer was and remarked that the witness didn't understand Question 204, and again read same to the witness after said witness had answered said question and Question 205 had been asked the witness, and he answered same and attempted to read Question 204 to the witness when counsel for Defendants excepted to him interfering with the witness and called on the stenographer and the counsel that if the witness did not understand any question that the stenographer read same to the witness and explain it to the witness when he persisted, and about that time the attorney, D. D.

Fields, for Plaintiffs, came into the room and demanded in a very determined way and said that they intended to read the question, when the attorney for the defense requested them to read it to themselves, then if they wanted to discuss it to withdraw from the room and the presence of the witness; but they insisted over the objection of the counsel for the defendants and did read in the presence of the witness.)

Q. Do you mean to say that the immortal soul of man when the man dies goes direct to God?

A. I can't say. I can't answer that question.

Q. Did Sam Caudill, your brother, preach the doctrine that when the person died whose soul had been pardoned of its sin, that soul went direct to God?

A. That direct part I can't understand. As I understand it when man dies his body went to the grave and his soul to the God who gave it, but the direct part, I can't understand that.

Q. What I want to know, Uncle Watson, is did Sam Caudill, prior to the year 1896, preach and advocate that in the general resurrection the immortal soul would be resurrected, or did he preach that the body would be resurrected?

A. If I understood him, he preached that the soul would be resurrected, that is, if I understand the meaning of the question.

Q. Then if I understand you, that he preached and construed the eighth item of the Article of Faith of the Sandlick Church, which the Church was governed under in the year 1896, which reads as follows: "We believe in the resurrection of the dead and a general judgment and the joys of the righteous and the punishment of the wicked will be eternal." That that meant the immortal soul would be resurrected; is that the way you understood him to preach?

A. I understood him to preach the way the Article of Faith read there, that section.

Q. What I want to know is, did he preach and advocate prior to the year 1896 that anything would be resurrected except the immortal soul of man, the immortal soul that was in the person?

A. There is the immortal soul to be saved and something to be done with the body. I have not got that on my mind how that was construed about the body.

Q. Didn't you say a while ago that it went to the mother dust?

A. That is where it went when the man died and the soul went to the God who gave it, and the body, I don't remember how it reads about that.

Q. I am not asking you about what it reads, but I am asking you about what Sam Caudill preached about the resurrection prior to the year 1896, whether he preached that at the general resurrection the immortal soul that was in the person would be resurrected, or did he preach that the Adam body would be resurrected. Now tell the Court which one he preached was resurrected, if either?

A. It wasn't the Adam body that was resurrected; I never heard him preach that, but the soul was to be resurrected.

Q. Have you got it in your possession, the record of the Sandlick Church, as you claim, from the year 1896 up to the present?

A. I have in my possession the Sandlick Church Record from

the year 1896 up to the present time, not as I claim it, but as the Church.

Q. I will get you to tell the Court when and where the last meeting was held that Elder S. C. Caudill was present.

A. It was held at the Sandlick Church House in October, 1902.

Q. Will you examine the record and tell the stenographer how many sessions your record shows was held from May, 1896, until October, 1902?

A. I will examine the record and there has been — sessions.

Q. Will you tell when and how many sessions was held after Sam Caudill visited the last time in 1902, prior to his death.

A. I will, and there has been — sessions, and the last one was in 1903.

Q. I will get you to tell the Court whether or not the record you have shows that L. F. Adkins was ordained by Sam Caudill and others after the year 1896?

A. It does.

Q. Do you remember what was the date of the meeting and what meeting it was?

A. I don't remember, but I can bring you the date.

Q. Will you make a complete copy of all the record of the meeting at which L. F. Adkins was ordained as a minister and file same with, and make it a part of your deposition and mark it W. G. C. No. 4.?

A. I could get it, but I think that is an unnecessary expense.

Q. Will you do it?

A. I can do it.

Q. Will you do it?

A. I will.

Q. Now, Uncle Watson, I will ask you if you don't know it to be a fact that Elder S. C. Caudill was, prior to the year 1896 a firm believer in and preached the doctrine of election and special atonement?

A. I know he didn't, as far as I know.

Q. I will ask you if he wasn't the moderator of the Church at the meeting of the ordination of L. F. Adkins, and if that record of the ordination don't show that L. F. Adkins was ordained by him and others, and don't the record show that L. F. Adkins was ordained to preach the doctrine of election and special atonement?

(Plaintiff by counsel objects to the foregoing question and excepts to any answer thereto, because the record of L. F. Adkins' ordination is the best evidence of what he was ordained to. At this point the Defendant withdraws the question.)

Q. When was the next session of the meeting after the year 1903 that you speak of, held?

A. It was held in 1912, is my recollection, December 22, 1912.

Q. Who was present of the members of the Church at that meeting that was present at the May meeting, 1896, if you know?

A. I don't know of any only my wife, Sabrina Caudill.

Q. What other members of the Church was present at that time, if you know?

A. James H. Collins was present.

Q. Anybody else?

A. I don't remember.

Q. Is Jim Collins and Sabrina Caudill, the Plaintiff, the only members of the Church that was present at the first session held in 1912?

A. Polly Ann Craft and Mary Cook was there at one time, but whether it was this time or not, I don't remember.

Q. Who did they have, if any one, as moderator of the Church?

A. Dave Adams acted as moderator pro-tem.

Q. Did they, after that, elect any one as moderator of the Church?

A. At the date we are now speaking of, we did, but the first meeting we held before that, we didn't.

Q. You mean you held one meeting before you elected any moderator. Is that right?

A. Yes.

Q. Then, if I understand you, you held one meeting before you had any moderator in the year 1912. Is that right?

A. We didn't have any moderator at the first meeting.

Q. You knew at the time of the meeting you speak of, and have ever since you elected your moderator in the year 1912, knew that the Defendant's had possession of the house and lot, did you not?

A. Yes. I knew they had possession of it, but whether it was peaceable I couldn't say.

Q. Do you know when they got possession of it?

A. I do not know that they ever did legally.

Q. You say in your petition that we are in possession?

A. You are holding it.

Q. Do you know how the Defendants got in possession of the house?

A. I think so.

Q. From whom did they get possession?

A. I don't think they got it legally from anybody.

Q. I am not asking you what you think, but what you know. What I want to know is what you know of your own personal knowledge as to how or from whom the Defendants got possession of the house.

A. I do not know anything about it from my own personal knowledge. I have an idea who got it. Steve Caudill come to my wife and made her give up the key to the church house to keep them from teaching a school there in the church house. Brother S. C. Caudill had directed her to get the key and when Steve got hold of the key, then later on they got hold of them, and I don't know how they got them.

Q. Your brother Steve was a member of the Sandlick Church at that time, was he?

A. Yes.

Q. Was he present at the time that is claimed by the Defendants that reconciliation was made?

A. Yes, he was present, and told me that he didn't think it was done right.

Q. Do you know whether he was at the Sandlick meeting at the church house the third Saturday and Sunday in April, 1905?

A. No, I don't know whether he was there or not; he may have been. Steve Caudill was a man that would visit nearly all meetings when he was able to go, no matter what denomination they be-

longed to.

Q. Now, I will ask you whether or not the Sandlick Church as you have it, ever at any time when in session made any order or appointed any committee to visit the body claimed to be the Sandlick Church that was holding their meetings at the church house, to demand of them the possession of the house and lot?

A. I can tell you what was done. They never visited, but they appointed a committee to talk with Rob Blair and others to see if they would let us have part of the time in each month to hold our monthly meetings, and they promised, so I am informed, to see at the regular meeting and give us an answer whether they would allow us any time in the month to hold our meeting; and I asked the Clerk, S. G. Fairchild, whether they agreed for us to have any time in the month, and he said that they talked about it and that they were willing for us to attend their meeting at their regular meeting time, was all the time they would allow us to have anything to do with the church house or the property.

Q. I will get you to tell the Court whether or not the Sandlick Church, as you have it, ever made any order while in session directing you, Joe Hall, Sabrina Caudill, Polly Ann Craft and William Ramey to bring and prosecute this suit prior to the 6th day of July, 1915?

A. There was a record made. We made an order to appoint W. G. Caudill, James H. Collins, Davy Caudill, appointing them a committee to bring suit for the Sandlick church house and property, if they refused to let us have it part of the time in each month to hold our monthly meetings.

Q. At what meeting was that made?

A. I don't remember, but I can bring you the date.

Q. I will get you to tell the Court why it is, if Jim Collins and Davy Caudill and yourself were appointed a committee to bring the suit, why it is you didn't join them as Plaintiff in this action.

A. I told the attorney that brought the suit the names of the parties and he wanted to know the names of different ones in the Church, and I give him the names of them, too, but I see they failed to get James H. Collins' name as one of the committee, and Davy Caudill, but took the names of the members of the Church, some of them. We didn't intend to have Brother Ramey's name placed in it.

Q. Then, if I understand you, you didn't intend to have anybody's name in the petition as Plaintiffs except yourself, J. H. Collins and David Caudill. Is that right?

A. No, it is not right. We didn't care how many of the members names were in the suit, but these three were appointed for that purpose.

Q. How many members have you received in the Church since 1912?

A. There are 22 members now, I think, belonging to the Church. There were four when the Church first started at that 1912 meeting, and then later on we were appointed to notify other members that was on our record left by S. C. Caudill, and I did notify some of them, Sylvania Collins; Aunt Louise Adkins wrote that she still wanted her name in our Church, and with them two and old Sister Nancy Niece, the balance has come in by letter and experience and

baptism, and one by application.

Q. I will get you to tell the Court whether you notified Louise Adkins in person?

A. I did not.

Q. Are you acquainted with her handwriting?

A. I am not.

Q. To whom was the letter addressed?

A. The letter, I think, was addressed to her niece, Archie Craft's wife, and my sister, Polly Ann Craft, delivered it to me.

Q. Do you know at what postoffice it was mailed at?

A. I forgot the name. I think Millard is the name of the postoffice, I won't be positive.

Q. Where does Aunt Nancy Niece live, that you speak of?

A. I don't know.

Q. Where was she the last time you knew of her?

A. I heard of her being over on Camp Branch not long ago.

Q. Did you notify her in person?

A. No, I did not.

Q. You speak of the committee that was appointed to talk with the Defendants making a report. Did any of that committee report that they had talked with them except Jim Collins and Davy Caudill.

A. Jim Collins and David Caudill claimed that they had talked to Rob Blair and Steve Fairhold.

Q. You stated in your deposition in chief that you lived a short distance from the church house nearly all your life except about three years. Am I right about that?

A. I made that statement, but I see now where I made a little mistake. I used to live up on the Sandlick at what we call now the Ben Holbrook place, which is one half mile from where I now live.

Q. You have been living where you now live for the last 15 or 20 years, have you not?

A. Yes. I have been there 15 or 20 years.

Q. Don't you know it to be a fact that the Lexington & Eastern Railroad Company had, at the time of the institution of this case, possession of part of the land described in the petition?

A. Yes, I knew that.

Q. They still have possession of it, so far as you know?

A. Yes. They still have possession of it, but who they got that possession of I don't know, only what I have heard.

RE-DIRECT EXAMINATION.

(By D. D. Fields)

Q. State whether or not since you can remember, it has ever been the practice of the Sandlick Church to pay its preachers?

A. It has not.

Q. Has it ever preached or advocated by any of the pastors or ministers of that Church that it was the duty of the Church to pay the preacher?

A. If it ever was, I never heard of it.

Further the deponent saith not.

W. G. CAUDILL.

Met pursuant to adjournment and proceeded to take the deposition of Joseph Hall, who after being duly sworn states as follows:

DIRECT EXAMINATION.

By D. D. Fields, for Plaintiffs.

Q. State your age, residence and occupation.

A. About 47 years old, reside in Knott County, Kentucky, and by occupation an attorney at law and a farmer.

Q. Are you an ordained minister of the gospel ordained by the Regular Primitive Baptist Church?

A. I am an ordained minister of the Regular Baptist Church.

Q. By what Church was you ordained?

A. The Providence Church of Regular Baptist of Jesus Christ, and which was then and now a Church in the New Salem Association of this faith and order.

Q. When was you ordained a minister?

A. I have not before me my credentials and shall have to answer from memory, but if I remember correctly, I was ordained by this Church on the fourth Saturday in July, 1889.

Q. Tell the Court whether or not the New Salem Association to which your Church belonged is in correspondence with the Sandlick Association.

A. The New Salem and Sandlick Associations were in correspondence at that date, but they are not in correspondence at this time as far as I know. I don't think they are. My membership is not now in the New Salem Association, and not in the Providence Church. About the year 1894 or 5 I took a letter of dismission from the Providence Church of New Salem Association dismissing me from said Church in full fellowship when joined to some other Church of the same faith and order, and I placed this letter with the Elizabeth Church of the same faith and order, which was a Church of the Union Association of Regular Baptist. This Church is located on the Boone Fork of the North Fork of the Kentucky River in Letcher County, Kentucky. My membership is now in that Church and in the Union Association.

(The Defendants at this point object and except to the foregoing narrative of the witness insofar as it relates to the Providence Church of Regular Baptist and the Union Association of Regular Baptists, and to the Elizabeth Church of Regular Baptists.)

Q. Are you acquainted with the Articles of Faith of the Sandlick Church and the doctrine that was advocated by the ministers of said Church prior to the year 1896?

A. I have seen what they purport to be or what they claim to be, the Articles of Faith of this Church and of the Sandlick Association.

Q. Was you acquainted with the doctrine of said Church prior to the year 1896?

A. I was acquainted with the doctrine of the Regular Baptists with whom this Church was identified generally before this time, and had visited this Church at one of her meetings that I remember of before that time.

Q. I wish you would tell the Court whether or not there is any difference in the faith and doctrine advocated by the churches known as the Regular Baptists and the Regular Primitive Baptist Church.

A. I don't think so. I have always understood that the churches of this same faith and order and association of that faith and order some of them styled themselves Regular Baptists and some of them called themselves Primitive Baptists, but to my knowledge this difference in the name was never considered a bar to fellowship, and when I joined the Providence Church, which was then a member of the New Salem Association of Regular Baptists, I found that the New Salem Association was in correspondence with other associations who styled themselves Primitive Baptists, and with some who only styled themselves Regular Baptists.

Q. Then, if I understand you, the difference in the name Regular Baptists and Primitive Baptists did not indicate any difference in the faith or order of the churches bearing those names. Is that right?

A. Yes, sir. I think that is right.

(Defendant objects and excepts to the foregoing question and the answer thereto, and asks the Court to exclude same from the deposition herein, because same is irrelevant and incompetent, and the question is leading and suggestive to the witness.)

A. I found those who styled themselves Regular Baptists and those who styled themselves Primitive Baptists preaching the same doctrine and were in correspondence and fellowship with each other when I joined the Church.

Q. Were the churches of these different names governed by the same order of decorum?

(Defendants object and except to the foregoing question and any answer thereto, because same is leading, and because the record of decorum is the best witness.)

A. Yes, sir, they were. I have examined the constitution, Articles of Faith and rule of decorum which the different associations had at that time, and I find them substantially the same. However, I notice that in these various associations the phraseology and wordings of the constitution, Articles of Faith and rules of decorum differed, but they all taught substantially the same thing. The only difference being the difference in the language used, while the faith and order taught thereby was the same.

(The Defendants object and except to all the narrative of the witness that refers to the Articles of Faith, rules of decorum and constitution of the Association of Regular Baptists, because same is not responsive to the question asked and upon this pray the judgment of the Court.)

Q. It is alleged in this action that the ministers of the Sandlick Church of Regular Primitive Baptists after the adoption of the Articles of Faith construed said Articles of Faith as supporting the following doctrine: "That Christ died for the sin of the whole world, that by His death and resurrection it was made possible for every person to be saved who would come upon the terms of the gospel, and that every adult sane person who was born into the world would be visited by the power of the Holy Ghost in some way so as to be shown that they were sinners, and if that person would truly repent of their sin that it was possible for them to obtain a pardon and a free remission of their sins, but that the par-

don of their sins would come after repentance." Tell the Court whether or not that was the doctrine advocated by the Regular Baptist churches, their ministers and preachers?

A. It was.

Q. Are you acquainted with the doctrine preached and advocated by the Defendants, Robert Blair, James M. Hall, and that was preached and advocated by Joseph W. Fairchild at one time and by Peter Adkins in his lifetime?

(Defendants object and except to the foregoing question and any answer thereto, because the question is not limited to the pleadings in the case and calls for anything that may have been done since the year 1896.)

A. Yes, I am somewhat acquainted with it. I have heard them preach a few times, but not very often, and have talked with them privately and heard them talk to others concerning the doctrine they preached.

Q. Was you acquainted with that doctrine by reason of the facts you have just stated, prior to the year 1896 and down to the present time?

(Defendant objects and excepts to that part of the question that calls for any answer from the witness as to his acquaintance with the Defendant since the year 1896 down to the present time.)

A. Yes, sir, I was acquainted with it prior to that time and have been acquainted with it since that time.

Q. I want you in your own way and language to explain to the Court the doctrine advocated and believed in by the Regular Baptist and Primitive Baptist churches and the doctrine preached and advocated by the ministers last above mentioned.

(Defendants object and except to the foregoing question and any answer thereto, because same is leading and suggests to the witness the answer desired.)

A. I understand it to have always been the doctrine of the Regular Baptist, as expressed in their Articles of Faith, to teach the following points of doctrine: First, They believe and teach only one true and living God, the Father, Son and Holy Ghost, and these three are one. Second, They have always been taught that the Old and New Testaments are the written word of God, and the only rule of faith and practice, and by that I have always understood them to mean that no person had a right to hold or teach any doctrine except that which was contained in the scripture. Upon these two points I have never noticed that the Regular Baptists and these parties you mentioned have differed, but on the third article I have always understood the Regular Baptist to teach and believe in the doctrine of election by grace.

(The Defendants at this point object and except to any statement of the witness in reference to any Article of Faith except to that of the Sandlick Church, and asks the Court to exclude all the statement of the witness in reference to the Article of Faith other than that of the Sandlick Church.)

A. In my statements above I have been quoting from the Articles of Faith published in the Union Association, of which I am a member. I now have before me the Articles of Faith filed in the

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pleadings in this case and which purports to have the Articles of Faith of the Sandlick Church, being the Articles of Faith printed in the minutes of the Sandlick Association for the year 1915, and so far as I see they are about the same. In the third article, which purports to be the article of the Sandlick Church, adopted in—

(At this point the Defendants except and object to the attorney for Plaintiffs interfering with the witness and suggesting that he is wrong.)

A. —1885 I find this article: "Third, We believe in the doctrine of election by grace." The Regular Baptists so far as I know and have heard during my acquaintance with them for the last 27 years in this community and in other parts of the country, have construed this article to teach that Christ was the eternal elect of the Father and that sinners were made the elect in him by a work of divine grace wrought in them in time, which they term adoption, and that it is by this adopting work of grace that sinners of Adam's race are made acceptable in this eternal elect of the Father, and thereby become the elect children of God, having by this work of grace been convicted of sin led to repentance and believed in the Lord Jesus Christ regenerated and born again, quickened into eternal life by this divine work of the holy spirit wrought in them and in this work of regeneration they are then pardoned and made new creatures in Christ, sealed with the Holy Spirit of promise and by this work of grace elected. While the ministers you refer to above, as we have understood them, construe this article so as to teach the doctrine of unconditional eternal particular election, and as we understand them taught that a certain definite number of Adam's creatures were eternally and unconditionally elected and that Christ only died for his definite number and for none other. They further taught that this elect number was and had always been in eternal vital unity with God, thereby teaching what was generally known as eternal children, implying that the elect was always the children of God, while the Regular Baptists, as we have understood them, teach that prior to regeneration the children of God were children of wrath, even as others, and that no person could be saved or could be the elect of the Father until they were adopted into Christ as shown above and thereby made the elect in him. The Regular Baptists have ever understood the term election by grace to imply an office work for the grace of God to perform upon the souls of the children of men in time, and thereby make them children of God. The ministers you refer to above holding that they were always the children of God, thereby eliminating the necessity for the exercise of the office of Divine Grace in order to make them the elect of the Father. We also understood these brethren you refer to above to preach the doctrine of absolute predestination of all things both good and evil, and to teach that every act of Adam's creatures whether good or evil and every event that takes place in time to have been so predestinated and arranged in the eternal purpose of God that is beyond the power of the creature to act otherwise, thereby making God the author of all things whatsoever come to pass, both good and evil. We understood them to teach this doctrine. The Regular Baptists denied this doctrine and held that

God did not predestinate the sinful acts of the children of men and that God was not the author of all things whatsoever come to pass. I find the fourth article to read as follows: "We believe in the doctrine of original sin and man's impotency to recover himself from the fallen state he is in by nature by his own free will and ability." The Regular Baptists so far back as we can trace them even from the days of the apostles to the present day, as we understand it, have taught and believed the doctrine of original sin, that is to say, that Adam, being the legal or federal representative of all the children of men, wilfully violated the law of God in the Garden of Eden and by his disobedience and transgression fell from the state of moral purity and uprightness in which he had been created and thereby brought sin and ruin upon the whole race of Adam, and that in this fall all the children of men stand upon an equal footing before God; and that when the law of God enters or is made manifest to them this sin is imputed and that they by reason of the manifestation of the moral law of God to their consciousness receive a knowledge of right and wrong and are thereby made accountable unto Him for all their acts in this life. They hold and teach and have always held and so taught, so far as I have ever known, and so construed this article of faith to hold with the doctrine of creature accountability and responsibility to God for their acts and deeds, and that it was by the transgression of men that they become lost, alienated from the life of God through sin or ignorance that is in them and thereby become strangers from the commonwealth of Israel and from the covenants of promise and in that state have no hope and are without God in the world, being by reason of sin and transgression the children of wrath, and that by reason of this fall they having lost their original purity and uprightness and were unable to restore themselves from the fallen state they were in by nature by their own free will and ability, and that in order for their salvation or for any of them to be saved it was necessary that Christ take their law place and stand and make an atonement for sin that would meet the requirements of God's law and satisfy the demand of His divine justice. We understood these brethren referred to above, by holding and teaching the doctrine of absolute predestination of all things to in substance, deny this doctrine of creature accountability and responsibility of the creature to God for all His acts done in this life, and that by teaching eternal children they virtually denied the necessity of Christ's death and suffering and the propitiation made by him for the sin of the world. The Regular Baptists have always held, so far as I know, in this country, that Christ came into the world for the purpose of seeking and saving the lost sinners of Adam's race, that he was mediator between God and men, and that when He died upon the tree of the cross he became the propitiation for our sins, meaning the sins of the Church, and not only for our sins but for the sins of the whole world. They have held that the atonement made by Christ was sufficient to satisfy the demands of the law for any and all of the sins of God's creatures when the benefit of this atonement is applied or imputed to them. They have always taught, as I have understood them, that every one of Adam's creatures who had re-

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ceived the law of God, who had become accountable to him, and who had transgressed His law and thereby become dead in trespasses and sin, and that they were all equal and involved in sin alike, so that none of them could be saved without the work of regeneration. They have always taught that in order for salvation the spirit of God first operates upon the heart of the sinner and shows him his lost and ruined condition and thereby commands him to repent of his sin as the apostles said at the times of these ignorance God once winked at, but now commandeth all men everywhere to repent. They believe that every sinner of Adam's race is commanded by the spirit of God to repent and that it is the duty of every sinner when thus commanded to obey God and submit to Him, and they teach that all those that do obey God and surrender to the Lord of Life will be convicted of sin by the Holy Spirit led through travail of repentance, regenerated and born again, made a new creature and thus saved by grace; that the pardon of sin comes to them after they have repented and believed in the Lord Jesus Christ. They have taught that in order for salvation it is the duty of the sinner to obey God and that if any sinners were lost it is because they received not the love of the truth, and because they refused to submit themselves to the righteousness of God, whilst the brethren you speak of above, we understand them to have taught that the first thing God done for sinners was to quicken him to eternal life and that he repented because he was a child of God and not in order to become the children of God; that they obeyed because they were the children and not in order to become the children of God.

(The Defendants at this point object and except to all the narrative of the witness about how that the Regular Baptists and also the Defendants holds the doctrine of salvation of sinners in construing the fourth item of the Article of Faith of the Sandlick Church, because there is nothing said in the fourth item about how sinners are saved, and asks the Court to exclude all that part of the question from the witness' evidence and upon this they pray the judgment of the Court.)

A. The Regular Baptists taught that all men everywhere should repent. The other brethren you mention, if I understand them, teach, and did teach, prior to 1896, that repentance was to the elect only; that Christ only died for the elect or definite number of Adam's race, and that regeneration only manifested to the elect that they were the elect children of God and did not make them the elect. In the Fifth Article of Faith filed in this action as an exhibit in which reference is above made to, reads: "Five, We believe that sinners are called converted, regenerated and sanctified by the Holy Spirit, and all who are thus regenerated and born again by the spirit of God shall never fall finally away." The Regular Baptists construed this article to teach the necessity of the new birth in order for salvation they have construed this article to teach the sinners in order to be saved, must be called out of nature's darkness or the lost and fallen state they are in by nature, and translated into the kingdom of God's dear son; that they must be converted, that is, changed from their sinful state to a state of righteousness; that they must be regenerated and sanctified by the

Holy Spirit and that this work of the Holy Spirit when wrought in them made them new creatures and made them children of God; that prior to the time this work of grace and of the Holy Spirit is wrought in them they are lost sinners of Adam's race and the children of wrath even as others. They have always construed this article to hold and teach that regeneration, conversion and sanctification is the work of the Holy Spirit wrought in the soul or inner man. They have always taught that in the creation God created man a complex being, composed of soul and body. They have held and taught that the soul thus created in man would always exist from the date of its creation throughout the ages of eternity, either in a state of eternal felicity and happiness or in a state of sin and punishment. The Regular Baptists have always taught, so far as I know, that the soul thus created in man was immortal, that is, it would have an endless existence from the day of its creation either in a state of happiness or punishment as above pointed out. And that the Adam sinner thus created and made and composed of a soul and body became lost in the fall of Adam and in order to be saved must be converted or born again. They have taught that this conversion redeems or saves the soul or inner man when regenerated and born again, as we have stated above, and in that new birth this soul is made a new creature and by this spiritual birth becomes partaker of the elect grace given in Christ before the world began; that is, transformed out of the state of sin and of moral death and made the partaker of the divine nature of Christ; that from the time of the new birth it is sealed with the Holy Spirit of promise; that the blood of the everlasting covenant, which is the blood of Christ, is then applied to that soul and thus cleanses it from all sin.

(The Defendants at this point except and object to the statement and narrative of the witness so far as he relates to the salvation of sinners or as to the Adam race being a complex being with an immortal soul, because the Fifth Item of the Article of Faith of the Sandlick Church nowhere mentions any such, and asks the Court to exclude all that narrative of the witness that is not in harmony with the Fifth Article of Faith, and upon this they pray the judgment of the Court.)

A. And it then becomes partaker of the divine nature of Christ and the eternal covenant of God is established with that soul, and that it has passed from death unto life and will never thereafter fall from grace or fall away so as to be eternally lost, and become heirs and joint heirs of the Lord Jesus Christ in the blessed promises and the plan of redemption. They base this construction upon the scriptures. The Apostle Paul says, "We delight in the law of God after the inner man." Again, we understand him to say, that "Though the outer man perish the inner man is renewed day by day." We understand him to say again, that "If Christ be in you the body is dead because of sin, but the spirit is alive because of righteousness." The Apostle Peter says in the First Chapter of his First Epistles in the 22d, 23d and 24th verses as follows: "Seeing you have purified your souls in obeying the truth through the spirit unto unfeigned love of the brethren, see that ye love another with a pure heart fervently, being born again not of corruptable

seed but of incorruptible by the word of God which liveth and abideth forever for all flesh is as grass and all the glory of man as the flower of grass; the grass withereth, the flower thereof falleth away." The 25th verse says, "But the word of the Lord endureth forever and this is the word by the gospel is preached unto you." The Saviour said, "Fear not them that are able to kill the body, but can not kill the soul, but rather fear him who is able to destroy both soul and body in hell." Paul again said, "No man knoweth the things of man, but the spirit of man that is in him, even so no man knoweth the things of God, but the spirit of God." Again, the same apostle said, "The spirit of God beareth witness with our spirits that we are born of God." From these scriptures and in the light of these scriptures the Regular Baptists have taught the doctrine that there is a soul in man to be saved or lost; that it is only by the work of divine grace that the soul can be saved, and when thus saved it becomes a new creature purified, sanctified and made fit for the Master's use. And they have taught that this work of regeneration was wrought in the inner man in time and saved. That when thus saved the divine nature of Christ in this redeemed soul led the person thus saved by the deeds of the spirit to mortify the deeds of the body and bring it under subjection to God, but the body being dead was possessed of the nature of sin and the flesh lusted against the spirit and the spirit against the flesh and that these two natures are contrary, the one with the other and that it is possible for God's children through weakness of the flesh to sin; but if they sin they had an advocate with the Father, Jesus Christ, and that His blood would cleanse them from all sin, and that from the time of the new birth these children of God always repent of the sins committed when the spirit of God brings to their understanding their sin, and that God pardons them when they repent of their sins. They have taught and still teach that when the body dies it goes back to the dust from whence it was taken and that the soul returns to God who gave it. They have taught that every member of Adam's race is possessed of a soul and a body and that the soul is saved in regeneration and that the body would be saved in the resurrection. They have taught so far as I know and as I have already understood them to teach, that the unconverted person or the person that was not born of God, upon the death of the body that that soul went to God and was punished. They base this upon the parable of the rich man that died and was buried and lifted up his eyes in hell, from this they have understood the scripture to teach the conscious existence of the soul after death. We understand the dissenting brethren above referred to by you in this question, to teach that the only soul the Adam creature possessed was the mortal man as he existed and lives upon the earth, and that in what they called the work of regeneration, an eternal child or an immortal nature in some mysterious way took possession of the man or vessel of mercy which they called the elect and that at death this immortal nature goes back to God and the body returned to the dust and has no conscious existence except in this immortal nature which we understand them to teach and hold to be a part of God's nature until the resurrection, then the body would be resurrected and

united with its immortal nature. We have understood them to hold, on the other hand, that the part of Adam's creatures or of Adam's family who were not the elect, that they never possess any immortal soul or anything immortal and that they (the non-elect) die the body returns to the dust and that the non-elect has no conscious existence whatever from the time of their death until the day of the general resurrection, and that then these non-elect bodies will be resurrected and punished from the presence of God. We understand the Regular Baptists to teach and to have taught so far back as we can trace their history, that all men, if they would obey the Lord Jesus Christ, submit to His righteousness, believe in Him, and repent of their sins could be born again and be saved. We have understood these dissenting brethren to teach that God in the plan of redemption made no provision for a part of the human family which they term the non-elect, and that this part of the human family never at any time from the cradle to the grave has any opportunity to be saved or could in any wise be saved; that the spirit of God never moves them to repentance and never commands them to repent, that they are not subjects of gospel address and —

(The Defendants at this point object and except to all that part of the narrative of the witness that relates to what his understanding is of the doctrine of the Regular Baptists, or any other people, except those of the Sandlick Church, and asks the Court to exclude same from the evidence of said witness and to strike it from the files of this case, and upon said motion prays the judgment of the Court.)

A. — could not be saved. I was well acquainted with Elder S. C. Caudill in his lifetime and I understood him to teach the doctrine of the Regular Baptists on these points and construe these Articles of Faith as I have above stated, prior to 1896, and after that up until he got disabled to attend church and preach. We preached together quite often, discussed these points of doctrine frequently when together privately, and he and I always agreed so far as I know in the construction we placed upon these articles of faith and the doctrine we preach. I saw him at his home a short time before his death, or sometime at least before his death, and he told me that he and I had always agreed in the doctrine we preached.

(The Defendants at this point object and except to the statement of the witness as to anything that Elder S. C. Caudill told him since the year 1896, and because of the fact that he is now dead and the witness is a plaintiff in this action and can not testify as to any statement made or any act done or omitted to be done by the said S. C. Caudill during his lifetime, and asks the Court to exclude from this deposition the statement of the witness relative thereto.)

A. And that if ever we differed a hair's breadth on any point of doctrine he never knew it.

(The Defendant at this point further objects to the statement of the witness as to what S. C. Caudill told him since the year 1896 as concerning the doctrine the witness preached.)

A. In the Sixth Item or Article of Faith we find it to read as

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follows: "We believe that sinners are justified in the sight of God only by the imputed righteousness of Jesus Christ." In construing this article of faith the Regular Baptists have always believed and taught that as sinners of Adam's race fell in Adam they could only be justified in the sight of God by the righteousness of Jesus Christ being imputed to them. They understand that the doctrine of these dissenting brethren to contradict this article of faith because if they were always the children of God they would not need the imputed righteousness of Jesus Christ to save them. The Regular Baptists always held and in the controversy between them and these dissenting brethren believes that the doctrine of eternal children preached by these dissenting brethren is contrary to and in contradiction to this article of faith.

(The Defendant at this point objects and excepts to the foregoing statement of the witness as to any controversy between the Regular Baptists and the brethren named by him as being dissenting brethren, except such as were in the Sandlick Church.

A. We find the Seventh Article of Faith to read as follows: "We believe that the baptism, the Lord's supper and feet washing are ordinances of Jesus Christ and that true believers are the only proper subjects of these ordinances, and we believe the only true mode of baptism is by immersion." I don't think there has been any difference between the Regular Baptists of whom I have been speaking and these dissenting brethren above mentioned in the way they construe this article of faith. The Eighth Article reads: "We believe in the resurrection of the dead and a general judgment, and that the joys of the righteous and the punishment of the wicked will be eternal." We have always understood the Regular Baptists to preach that the bodies of all men of Adam's race would be raised from the grave at the day of a general resurrection; that the mortal bodies of God's children in that day of the general resurrection would be changed from a natural body to a spiritual body and that these vile bodies would in the resurrection be fashioned like unto Christ's glorious body and be made immortal, be remitted with the soul which has been regenerated and born again and thereby both the soul and the body of the children of God be saved and housed eternally in the Kingdom of God and that the body of the wicked would also be raised and united with their soul and that they, both soul and body, would be punished with an everlasting destruction from the presence of God, and that in the general resurrection all men would be resurrected, judged, and that the joys of the righteous and the punishment of the wicked would be eternal. They have taught that the righteous meant all the redeemed of Adam's race that had been saved in the washing of regeneration, all those who died in infancy and all those who never had mental capacity sufficient to be accountable for their sin; that the wicked embraced all those who had sinned against God and refused to repent of their sins, rejected Christ as their Saviour and died without a pardon of sin.

(Defendant excepts to all the narrative of the witness that relates to any construction of the Article of Faith by any of the Regular Baptists or anyone except members of the Sand-

lick Church prior to the year 1896, and asks the Court to strike same from the evidence of the witness.)

A. The Ninth Article reads: "We believe that no minister has a right to administer the ordinances except such as are called and come under the imposition of hands by the presbytery." I have never noticed any difference between the Regular Baptists and S. C. Caudill and those identified with him and these dissenting brethren with reference to this Article of Faith. We was acquainted with Elder S. C. Caudill of the Sandlick Church before 1896 and had some acquaintance with some of the members of the Sandlick Church before that time. We was also acquainted with the doctrine of S. C. Caudill before that time and after that time, and was also acquainted with the doctrine held by these dissenting brethren of the Sandlick Church. We understand and understood then S. C. Caudill and those who identified themselves with him to hold the doctrine I have described above as being the doctrine of the Regular Baptists and that those dissenting brethren held the doctrine as I have described above when speaking of them. I think I have answered this question, having examined the Articles of Faith filed in this action and given the construction placed upon them by the Regular Baptists as they are articles of faith which I have seen among Regular Baptists since I have been preaching among them. The Union Association, of which I am a member, has articles of faith almost the same, if not exactly the same, as these I have just examined. I want to file and make part of my deposition the Articles of Faith of the Union Association printed in their minutes for the year 1915.

(The Defendant excepts and objects to the filing of any other church or association from that of the Sandlick Church, or any minutes of any other association as part of this evidence in this case, because same is not revelant to the issue and is irrevelant, redundant and voluminous, and is not an article of faith of any association with whom the Sandlick Church was in correspondence with in the year 1896.)

A. I am Clerk of the Union Association and also Secretary. This association was formed out of churches given off under New Salem Association, according to the minutes and record, 56 years ago. At the time I joined the Regular Baptists and became a member of the New Salem Association, the New Salem Association was in correspondence with the Union Association, of which I am now a member, and also in correspondence with the Sandlick Association to which the Sandlick Church at that time belonged. The Articles of Faith in the New Salem Association was not worded exactly like the Articles of Faith of the Union Association and I notice a difference in the wording of the articles of faith of different associations that were at that time in correspondence with the New Salem Association. We seldom find where the articles of faith of any two of these associations are worded exactly alike, but we believe they all teach the same principles of doctrine. I was at one time Secretary of the New Salem Association and had in my possession the old records of that association. These records showed that the Sandlick Association was formed out of churches given off from the body of the New Salem Association; that before

the organization of the Sandlick Association the Sandlick Church was identified with the New Salem Association. I also at that time had in my possession some of the record of the Burning Spring Association from which the New Salem Association had been formed. These records showed Burning Spring Association was organized about the year 1813.

(The Defendants except and object to the foregoing narrative of the witness as to the New Salem Association and the records thereof and to the Burning Spring Association and the records thereof, because the record is the best evidence themselves, and asks the Court to strike said narrative of the witness from said deposition because same is incompetent, irrelevant and is being made for the purpose of making the record voluminous.)

A. These records showed, if I mistake not, that the Sandlick Church by petition was received into the Burning Spring Association somewhere about the year 1817, as well as I now remember.

(The Defendant excepts to the foregoing statement as to what any record shows of the Burning Spring Association as to the Sandlick Church unless the witness produces the record, because the record itself is the best evidence.)

A. I have not now these records of the New Salem Association and of the Burning Spring Association, but I think they are now in the custody of Willard S. Akers, the Clerk and Secretary of the New Salem Association, or at least that is my information that he has these records.

(The Defendant objects and excepts to the statement of the witness as to what he may think about the whereabouts of the records of the New Salem Association and Burning Spring Association.)

A. These records show the New Salem Association to have been organized in 1825, if I am not mistaken.

(The Defendant objects and excepts to the foregoing statement as to the records for the reason above stated and because the record is the best evidence.)

A. I have before me a copy of the New Salem Minutes for 1915, which has printed in them the Articles of Faith of that association as adopted when organized in 1825, which shows what they then believed and to some extent shows how they construed the doctrine of the Regular Baptists of which then the Sandlick Church was a part, especially with reference to the doctrine of particular election. In the Thirteenth item of that article I find they use this language: —

(Defendant objects and excepts to any language of the Article of Faith unless the whole article of faith is filed herein.)

A. — “None of the above articles shall be so considered as to hold with particular election and reprobation so as to make God partial, directly or indirectly; nor to injure any of the children of men, or shall any of these articles be altered without legal notice and free consent. I want to file a copy of these minutes containing the entire Article of Faith of the New Salem Association and make it a party of my deposition marker JH No. 2. This same minute has a circular letter written by James Dixon in the year 1876 —

(The Defendant at this point objects and excepts to any statement or reference to any record or circular letter written by anyone or published by anyone except same is referred to and made part of the deposition in this case, and because same is incompetent, irrelevant and redundant and sheds no light upon the question as to the title to the property in question in this action.)

A. — This circular letter shows the doctrine of the Regular Baptists and especially their doctrine with reference to the atonement. In this circular letter I find Brother Dixon makes use of the following language: —

(At this point the Defendant objects and excepts to any statement or language used by James Dixon in a circular letter unless the entire circular letter is filed as an exhibit in this record.)

A. — "It is then that there great united powers of Deity that have undertaken our case in the general atonement is moved with great pity toward the beggars, they being co-workers in spiritual fellowship that makes one and the same in the great pardoning power of sins." As we have already filed a copy of this minute I want to refer to the entire circular letter from which this quotation is taken and make it a part of my deposition.

The Union Association, of which I am a member, is in correspondence with the New Salem Association of Regular Baptists, with the Indian Bottom Association of Regular Baptists, and with the Mud River Association of Primitive Baptists. I have before me a minute of the Indian Bottom Association with whom the Plaintiff in this action, who claims to be the Sandlick Church, are now identified with and as the Union Association and Indian Bottom Association are in correspondence, and of the same faith and order these brethren of the Sandlick Church, saw fit to choose me as their pastor, and I suppose that is why I am made one of the party Plaintiffs in this action. I am not a member of the Sandlick Church. I have no personal interest in the property in dispute in this action. I want to call the Court's attention to the fact that I am not the Joe Hall spoken of by some of the witnesses who have given their deposition in this case and referred to Joe Hall of Millstone Church. I am not the Joe Hall referred to as moderator of the Sandlick Church when they say the reconciliation was attempted to be made. The Joe Hall referred to there on that occasion and myself are two different persons. I understand he was at one time was a minister and at the time they speak of a member of the Millstone Church and a citizen of Letcher County. I was never a member of the Millstone Church and never was a citizen of Letcher County.

I have a copy of the minutes of the Indian Bottom Association for 1915 containing their Articles of Faith, constitution and rules of decorum. Their articles of faith are not worded like the articles of faith of the Union Association nor of the New Salem Association nor of the Sandlick Association as shown by the minutes before me, but I understand all these articles of faith to teach the same doctrine, faith and practices.

(Defendants object and except to the foregoing statement of

the witness as to his understanding as to what the Articles of Faith of the Union Association, New Salem Association and Sandlick Association and Indian Bottom Association, because the articles of faith themselves show what they teach and what they contain and is the best evidence.)

A. I want to refer the Court to the constitution, rules and decorum and articles of faith of the Indian Bottom Association as printed in their minutes for the year 1915, and make it a part of my deposition, marked JH No. 3.

(The Defendants at this point object and except to the filing of the said minute referred to in the statement of the witness from the fact that the answer of Defendant charges that the articles of faith, constitution of the Indian Bottom Association as adopted by it was entirely different to that of the Sandlick Association and the Plaintiff, having failed to deny said allegation and the Court having entered an order taking said allegation of the Defendant's answer as true, and thereby any proof or evidence that goes to show or disprove the allegation of said answer, is incompetent, irrelevant and redundant and not pertinent to the issues herein, and is for the purpose of making the record voluminous and the Defendants therefore asks the Court to strike out said statement of said witness and the filing of said minute and the minute itself together with the articles of faith, constitution and rules of decorum from the evidence of said witness, and upon this the defendant prays the judgment of the Court.)

A. As I understand, history shows Burning Springs Association was formed out of the South Licking Association. That the South Licking Association was organized about the year 1802.

(The Defendant at this point objects and excepts to any statement of the witness as to the South Licking Association, or to his information thereabout, because same is hearsay evidence.)

A. That Salem Association was organized about 1794, that the Elkhorn Association, which was the first Regular Baptist Association organized in Kentucky, that it was organized about the year 1785. In order to show what Regular Baptists believed from that time down to the split which occurred in the Sandlick Church in 1896, we want to refer the Court to a few quotations taken from a history of these early Baptists in Kentucky, written by John Taylor, who was one of the early Baptist preachers in Kentucky. He shows in this history on page 44, that he moved to Kentucky in the summer of 1784. We find him saying, using this language:

(At this point the Defendant objects and excepts to the foregoing statement of the witness as to John Taylor or the early Baptist preachers of Kentucky, or quoting what any one of them has said in history, unless the entire history of what all the Baptist people have said in Kentucky on this subject in writing, and asks the Court to exclude from this record the statement of the witness he has made thereto or any statement he may quote from history, and upon this pray the judgment of the Court.)

A. — "I moved in the summer of 1784 and soon began to hold meetings at our little cabins in the woods." On page 45 he says, "Perhaps in the month of August, 1784, I became a member of South Elkhorn Church, where I was brought under pastoral cares of Lewis Craig, who was now in the prime of life as to the gospel ministry of the age of about 40 or 50 years.

Q. I will ask you to refer to the seventeenth item in the minutes of the New Salem Association filed as Exhibit JH No. 2 and make it a part of your deposition.

(Defendants except to the foregoing question or any answer thereto, because said minute is not a minute of any association with whom the Sandlick Association or Sandlick Church was in correspondence with in the year 1896.)

A. I will refer to it and make it a part of my deposition.

Q. You have spoken of the Regular Baptists and the Primitive Baptists, and by the word "primitive" I mean the Sandlick Church as organized and of which you are pastor, and state whether or not there is any difference in their doctrine?

A. I don't know whether the Sandlick Church was designated by the name Primitive Baptists, but she is now styled or designated by that title, as Regular Primitive Baptists, I believe. I have not the record before me, but I know she uses the word "primitive," and so far as I know the Regular Baptists and the Primitive Baptists are the same people, and when I joined the Regular Baptists over 27 years ago, we were in correspondence with associations and churches who styled themselves Regular Baptists and also with associations and churches who styled themselves Primitive Baptists, and I understood the doctrine of each to be the same.

(At this point the Defendant excepts and objects to the foregoing answer, because the witness has heretofore answered said question in substance, if not in words.)

Q. There is filed in this case a copy of the Articles of Faith of the Sandlick Church, and upon which it was first organized in 1815. I will ask you to examine said Articles of Faith and tell the Court whether or not they are in substance the same as the articles of faith as the doctrine of the Sandlick Church in 1885.

(The Defendants object and except to the foregoing question or any answer thereto, because the articles of faith upon which the Sandlick Church was constituted on in the year 1815 and the one adopted by the Sandlick Church in the year 1885 are each filed as exhibits in this case and show for themselves, and because the witness has heretofore referred to and made each of them part of his deposition.)

A. I think so. I find they are not worded alike, but I think they teach the same principle of doctrine and of faith and practice.

Q. I want to call your attention to Article 14 and ask you to state to the Court whether or not if the word "and" following the word "gospel" and preceding the word "defraying" is upon the record, the word "in", whether or not that item to be the same as Article 11 in the Articles of Faith of the New Salem Association in substance?

A. If the preposition "in" should be used in the second line of the 14th item you referred to instead of the conjunction "and" then

they would substantially teach the same thing, as I understand it. It has always been the practice of the Regular Baptists to contribute for defraying all reasonable expenses of the Church and for the works of charity in supplying the necessities of the poor, according to the several abilities of the members of the Church, but it has never been the practice of the Regular Baptists to pay their preachers for preaching, and they have always opposed, so far as I know, and still oppose, the doctrine of a salaried ministry, and I don't know of the Sandlick Church at any time since organization teaching or practicing the doctrine of a salaried ministry or paying preachers for preaching.

(The Defendant excepts to the foregoing statement and narrative of the witness as to the declaration so far as he knows and to the declaration of the doctrine of Baptists as to whether or not they paid their ministers for preaching, from the fact there is nothing stated in the pleadings nor no issue made in this case as to whether the Baptists paid their preachers or not, and asks the Court to strike said statement from the deposition of the witness, and upon this motion they pray the judgment of the Court.)

Q. What is the highest ecclesiastical body in the Regular Primitive Baptist Church?

(The Defendants at this point objects and excepts to any statement or evidence as to the ecclesiastical power from the fact that the allegation of the Defendant's answer charges that the highest ecclesiastical power known to the Regular Primitive Baptists is the Association of Churches, and that it was organized and is connected with the rule and government of the Primitive Baptist Church, and said allegation having heretofore been taken as true by an order of this Court.)

A. The local Church. It has always been the doctrine of the Regular Baptists and of the Primitive Baptists to teach and practice what we know, and sometimes call the independent system of Church Government; that is to say, that each Church holds her own keys and is independent of every other Church. The associations they have are only advisory councils and not law-making bodies, and in the constitution they provide that the members when chosen and convened as an association, shall have no power to Lord it over God's heritage, or shall they have any clerical power over the churches in the union or shall they infringe on any of the internal rights of any Church in the association. The association has no power to receive members into the fellowship of the Church. They have no power to exclude members from the fellowship of any Church. They have no power to settle Church difficulties unless the same is referred to them or presented to the association by query or request from some of the churches. They have the right to give churches advice on points of difficulties, but they have no power to make laws for the churches. They may drop fellowship with the Church provided the Church becomes in disorder or violates or departs from the orthodox principles of religion, but as far as they can go is to drop the Church from their fellowship. On the other hand, the local Church is the sole judge of the qualifications of its own members. Each local Church is the

sole judge of what members of the Church it should receive and of excluding members, and the local churches would have the right to refuse to letter to an association provided they thought the same was in disorder, and it would have the right to withdraw from any association to which the local Church might belong in case the association departed from the orthodox principles of religion or became in disorder.

(The Defendants at this point objects and excepts to the foregoing statements and narrative of the witness that goes to show that the individual Church has a right to withdraw from any association when it is believed that the association was in order, because there is nothing in the Articles of Faith of the Sand Lick Church or that of the Sandlick Association with which the Church was in fellowship and correspondence with in the year 1896, and asks the Court to exclude all that part of the statement of the witness from the evidence and upon this they pray the judgment of the Court.)

A. The Regular Baptist churches and associations nor the Primitive Baptist churches or associations has never at any time has held or recognized any centralized head on earth nor had any centralized law-making body on earth, but on the contrary has always held Christ to be the head of the Church and of all the churches of His, and have always held that He was their only law-giver, and they believe the only divine law or government is instituted or given them to be governed by either for doctrine or practice is the word of God or written word of God, as we sometimes call it, composed of the Old and the New Testament scriptures.

Q. According to Baptist usage and constitution of Primitive Baptist churches, Regular Baptist churches, when a member of the Church is excluded, what is necessary to reinstate that person and make it again a member of the Church?

A. The person thus excluded must come before the Church or request the Church to restore them to fellowship, and upon the Church being satisfied that the member should be restored the vote or voice of the Church is taken upon that question, and if upon the will of the Church being found willing to restore them, there is then an order made in the Church and it is made a part of the record of the proceedings for that meeting, showing that the person that had been excluded was restored by the Church to fellowship, and after that is done this person becomes again a member of the Church.

Q. State whether or not it is the universal custom and usage of said churches to restore members by a recantation or by experience and baptism, and in no other way?

A. It is the uniform custom and has been among all the churches with whom I have been acquainted of the Regular Baptists and also the Primitive Baptists to receive members into the Church by experience and baptism, by letter, by recommendation, by restoration and sometimes by application. I don't know of the practice of receiving members by recantation, except I have heard ministers use the term, but I have always understood they meant by

the term "recantation" the same thing as restoration or restoring a member back to fellowship that had been excluded.

Q. What I want to know is, when a person is once a member of the Church and is excluded from that Church, whether or not there is any other way by which that member can become a member of that Church again, except by restoration, as you term it, or by again coming into the Church by experience and baptism.

(Defendants object and except to the foregoing question or any answer as to the usage and custom of any other Church except that of the Sandlick Church.)

A. No, there is not, to my knowledge.

(At this point the Defendants excepts and objects to all the testimony of the witness and all the exhibits filed as evidences in this case by the witness which is not exhibits or records or constitutions of the Sandlick Church, and all the statements of the witness as to any doctrine preached by any other minister than that of the Sandlick Church, and asks the Court to exclude or strike same from the deposition of the witness herein, and upon said motion they pray the judgment of the Court.)

CROSS EXAMINATION.

By Robert Blair, One of the Defendants

Q. How long did you say you had been a member of the Regular Baptist Church?

A. About 27 years, as well as I can remember.

Q. Was you ever at any time a member of the Sandlick Church mentioned in the pleadings in this case?

A. I never was.

Q. Was you ever moderator of said Church prior to the year 1911, or any part of it?

A. I was never made moderator of any part of the Sand Lick Church or of the Sandlick Church until I was chosen or called as pastor of the Church some years ago, but I now don't remember so as to be certain what date it was. If I had the records before me I could tell you. I think we made a record of that fact and the record will show when it was I was chosen of the Church.

Q. You know whether that was prior to 1911 or not, don't you?

A. I think it was about that date, might have been some time before that or a short time after 1911.

Q. Was W. G. Caudill, one of the plaintiffs in this action, a member of the Church at that time?

A. No, sir.

Q. How long was it after you was elected as moderator until W. G. Caudill became a member, if at all?

A. I don't remember just how long it was, but not very long, I don't think.

Q. As much as one year?

A. I don't think it was quite a year. The records will show.

Q. You mean the records that are in possession of the Plaintiffs?

A. Yes, sir, the records of the Sandlick Church as the Plaintiffs have kept them since I became their pastor.

Q. Have you examined these records carefully?

A. I can't say I have examined them carefully, but I have made an examination of them.

Q. Can you tell the Court how many meetings had been held by the Sandlick Church as these records showed since the year 1903 up until the date you was selected as moderator of the Church?

A. I can not tell.

Q. Don't you know from your own knowledge and from the record you have made that there was never any regular session had or held by the Sandlick Church, as you claim it, after the year 1903 until after the year 1911?

A. I do not know of my personal knowledge as to what meetings might have been held during the time you speak of, and I don't remember having seen on the record any meeting held by the Sandlick Church after the year 1903 until I was chosen as pastor of the Church.

Q. Do you know whether or not the Sandlick Church prior to the year 1896 had any rule of decorum by which she was governed outside of the Article of Faith she was constituted on and the one adopted in the year 1885?

A. I don't know. I never examined their Articles of Faith and rules of decorum prior to this date, that I remember of, but from the time I joined the Regular Baptist Church I have at different times saw the Articles of Faith and rules of decorum that the Sandlick Association then had and printed in their minutes, but I never went to the local Sandlick Church and examined her record to see what Articles of Faith and rules of decorum this particular Church at that time had or had had prior to that time. It has been my experience that it sometimes happens that the Articles of Faith and rules of decorum of the local churches are worded different to the Articles of Faith and rules of decorum of the association to which the local churches belong. For instance, when the Providence Church was organized, as her record shows, she adopted Articles of Faith not worded exactly like the Articles of Faith of the New Salem Association with which she was identified. In the Elizabeth Church, where I now belong, has Articles of Faith, as I remember it, somewhat different in wording from that of the Union Association to which she belongs and it could have been possible that the Articles of Faith and rules of decorum of the Sandlick Church was not worded the same as that of the Sandlick Association.

Q. Now, Mr. Hall, I did not ask you as to the Articles of Faith or rules of decorum of any other church or any other association other than the Sandlick Church. What I want to know is, do you know whether or not the Sandlick Church prior to the year 1896 had any rules of decorum by which she was governed?

A. I don't know, except by what the exhibits and records show.

Q. Is there any exhibit filed in this case as rules of decorum of the Sandlick Church?

A. I have seen in a minute which you have filed as an exhibit in this case rules of decorum which purport to be the rules of decorum of the Sandlick Association, but I can't state whether or not the Sandlick Church ever adopted these rules of decorum as the rules of decorum of the Sandlick Church.

Q. I will now get you to tell the Court the names of all the elders of the Sandlick Church that you know of being members of said Church since the year 1885 up to the year 1896?

A. It is my understanding S. C. Caudill was an elder during this period of time, that Peter Adkins was an elder of this Church, that J. W. Fairchilds was part of the time during this period of time a minister of this Church, and Robert Blair was a member of this Church about that time, but I don't know whether he was ordained as a minister at that time. I can't state this to be facts, but I am only stating to you the information I had about it.

Q. I believe you say that you are well acquainted with the doctrine advocated by the Regular Baptists and have been for several years. Is that right?

A. I am acquainted with the doctrine of the Regular Baptists.

Q. I will now ask you if Sam Caudill was not the only elder in the Sandlick Church that you ever heard say or preach between the date of 1885 and 1896 the doctrine you say is old Regular Baptist doctrine?

A. Yes. I think he was the only one of that Church that I heard preach the old Regular Baptist doctrine. There was general complaint from the year 1889, when I first joined the Baptists up until 1896 among the Regular Baptists that the other elders of this Church, that is to say, Peter Adkins, J. W. Fairchild, were not preaching the doctrine of the Regular Baptists, but was preaching a different doctrine.

Q. Then, if I understand you, there was never any trouble or general complaint being made among Baptists about doctrine until you joined the Church. Is that right?

A. No, I heard some complaint about some ministers in the ranks of the Regular Baptists preaching what the people called hard doctrine before I joined the Church.

Q. How long before?

A. I can't state exactly how long that I noticed hearing this complaint spoken of among Regular Baptists, but I think about six or seven years, might have been a little longer, before I joined the Church.

Q. You stated in your deposition in chief that the Regular Baptists doctrine was, that in the beginning when God created man, that He created him a complex being composed of or possessed of an immortal soul. Now, I will ask you to tell the Court, whether or not you mean the man spoken of in Genesis, 1st chapter and 27th verse, which reads as follows: "So God created man in His own image, in the image of God created He him, male and female, created he them." Is that the Man you had reference to when you said God created him with an immortal soul?

A. Yes, sir, he and his posterity.

Q. What do you understand the word "create" or "created" in this sentence to mean?

A. To produce, to make, to form and bring into being.

Q. Don't you know that the definition of the word "create" means to bring into being from out of nothing, to cause to exist?

A. I think that a very good definition of the term "create."

Q. Do you mean to say, then, that Baptist's doctrine is that God created man out of nothing?

A. We mean to say that God is the Creator and that he created all things that were made and that prior to the creation they had no existence, but in the strict analysis of the term from the Bible point of view we understand that God first created the Heaven and the earth and then made man as the crowning act of His creating work, out of the dust of the ground.

Q. Is it Regular Baptist doctrine that man had any existence before he was formed out of the dust of the ground?

A. They teach he had no existence prior to his creation.

Q. Do you mean to say that he was not created until he was formed of the dust of the ground?

A. I mean to say he had no existence before God created him—let that creation date whenever you may.

Q. I am asking you to date it according to the Regular Baptist doctrine. That is, to date whether or not he had any existence before he was formed of the dust of the ground.

A. Regular Baptists, so far as I know, has never entered into a metaphysical speculation with reference to the origin of man, but has always accepted and held to the scriptural declaration found in Genesis that God created him and formed him out of the dust of the ground, breathed into his nostrils the breath of life and man became a living soul, and they have always taught that when God created him he created man in his own image, and the man thus created was composed of a soul and a body.

Q. What I want to know is, whether or not the Regular Baptist's doctrine is as to whether or not this man you speak of being created was possessed of that immortal soul you speak of before the breath of life was breathed into his nostrils, or afterward?

A. At the time he became a living being.

Q. Is it the Regular Baptist doctrine that the breath of life that was breathed into him which you speak of being breathed into him is the immortal soul which you speak of, that is to be saved or lost?

A. If you mean the animal breath we breathe, we do not; but we teach that God, when he created him, created within him a principle or spirit which we call and which the Bible, as we understand it, called the soul or inner man or spirit of man, and that that spirit is immortal in the sense that that spirit of man thus created in man would have an existence from that time on, and would never cease to exist. We use the term immortal to indicate the never ending existence of that spirit of man. We don't believe that that spirit of man that God created in him can ever be or ever will be or that it was the design of God that it ever should be annihilated or cease to exist from the time of its creation onward.

Q. Now, Mr. Hall, my question is, and what I want to know is, was that spirit created in the man when the man was created before the breath of life was breathed into him, or do you tell the Court that the breath that the Lord breathed in there created that spirit in man?

A. As we have said above, we don't speculate as to how God did it, but we accept the scriptural declaration that by the power of

God he was created and made a living soul, and that life began to exist both as to the soul and to the body at the time this life was communicated to him, or given him from the hands of his creator, and that the living existence of the body and the living existence of the soul dates from the time this life is given unto him.

Q. Then, if I understand you, the Baptist doctrine is that it really takes the man in his existence with the immortal soul in him to constitute the man, is that right?

A. It takes the man composed of soul and body to constitute the whole man.

Q. Is that soul and body that you speak of inseparable, or have two separate and distinct characters?

A. The body and soul are united together and live together in the one man, or exist together during natural life, but it is possible for them to be separated.

Q. Then, according to Baptist doctrine, is one of those characters of man you speak of responsible for what the other does?

A. The whole man thus constituted and made up of soul and body as an accountable creature is responsible to God for the acts of the man or the creature.

Q. Are they both equally involved in sin by reason of transgression of the laws of God, one as well as the other?

A. The Regular Baptists teach that both soul and body is involved in the transgression; that by the disobedience of one man, which meant the first man that God had created and made, and who was the federal head and representative of all his posterity, sin entered the world and death by reason of this sin or transgression, was passed upon Adam and all sins of his posterity, and I understand the word death to imply both moral and temporal death; that in the fall of man the soul lost its mortal purity before God and that natural death is passed upon the body of man.

Q. I will get you to tell the Court what you mean by moral purity?

A. By moral purity I meant the state of purity in which man was before he transgressed the laws of God.

Q. Do you mean to say that that immortal soul of man by reason of the transgression became corrupted or not?

A. Yes, sir, I do.

Q. Do you mean to say that by reason of that transgression of man it only brought natural death upon the other part of man?

A. It brought natural death upon the body, moral death to the soul in so much that the scriptures say that man while living in the body are dead in trespasses and sin.

Q. I will get you to tell the Court if you didn't say in answer to Question 33 that the transgression brought temporal death and that soul lost its moral purity before God and that natural death was passed upon the body of man?

A. I stated in answer to Question 33 that Regular Baptists taught that both soul and body is involved in the transgression and that the word death we understood to imply both moral and temporal death, that is to say, in the fall of man the soul by reason of sin, becomes dead in trespass and sin and the body becomes subject to temporal death or natural death.

Q. I will now ask you if you did not say in answer to Question 33 that the transgression brought temporal death on that soul and it lost its moral purity before God, that natural death was passed upon the body of man. Did you say that in answer to that question, or not?

A. I did say that natural death was passed upon the body of man, and that by reason of sin and transgression the soul lost its moral purity or statements that imply that.

Q. Now, Mr. Hall, I will ask you to tell the Court if, according to Regular Baptist doctrine which you say you are acquainted with, whether they preach and teach that God ever created any immortal soul except the one in the first man, Adam, you speak of?

A. They teach that all the descendants of Adam like the federal head from whom they descended, possessed a soul and a body the same as he did.

Q. You do not answer my question. What I want to know is, do you teach and advocate the doctrine that God ever created any more than one immortal soul?

A. We believe that all the posterity of Adam has an immortal soul, the same as did Adam, and that is of any by and through the creative work of God that men, possess or have in them, this immortal soul.

Q. Then, if I understand you, you preach and teach that God created the first man, Adam, with pro-creative power to create other immortal souls in his posterity. Is that right?

A. That is pure speculation of your own. We have nowhere said that God created Adam with pro-creative powers, but we do believe that God in his own way creates an immortal soul in every member or person of Adam's posterity. How He does it, Regular Baptists have never stopped to speculate, but hearing God say in His word by the mouth of the prophet, all souls are mine, as the soul of the father, even so is the soul of the son and the soul that sinneth it shall die. We accept this statement of God's word that the father, Adam, possessed a soul and that all the sons of children of men descending from him likewise has a soul.

Q. What I want to know, Mr. Hall, is was all these immortal souls created and existed in Adam, the first man created, in the same sense that his offspring or posterity existed in him?

A. I don't know whether I understand your question or not, but as I have stated above we don't speculate as to how God imparts to every member of Adam's posterity a soul. Neither do we profess to be able to explain all the mysteries of God relative to our being, but we do believe that Adam had a soul and that all of his posterity has a soul.

Q. What I want to know is, and what I want you to tell the Court is, do you mean to say that God in these last days is creating immortal souls?

(Plaintiff by counsel objects to the foregoing question and any answer thereto, because it is not relative to any issue involved in this action and sheds no light upon the issue involved.)

A. In the same sense that God creates man, in that sense we mean he creates every soul that exists.

Q. Do you mean to say that immortal soul that was in the first

man that was created is multiplied in the same sense that offspring of Adam is multiplied?

(Plaintiff by counsel objects to the foregoing question and excepts to any answer thereto, for the same reason as stated above.)

A. We mean to say that as the offspring of Adam are multiplied that God in his own way imparts or gives to them an immortal soul and that every human being upon earth that is engendered of Adam has a soul, just like this multiplication of Adam's posterity is affected we do not speculate upon that point, such points as that Regular Baptists have always held where I have been among them are held by them to be mere metaphysical speculations and they do not undertake to definitely explain these questions, but leave them to the curious persons who may want to speculate upon metaphysical questions which do not concern us or affect us materially, but we have been, as Regular Baptists, so absorbed in studying and applying the principles of God and Godliness that is necessary for the welfare of the children of men that we haven't got time to speculate upon these questions, but are willing to leave it to you to speculate upon to your own satisfaction.

Q. What do you mean my metaphysical questions?

A. I mean questions of mystery not ordinarily understood by the generality of men.

Q. You have said in your deposition in chief that in the transgression of the first man that was created that the immortal soul that was in him lost its mortal purity and that this sin or transgression of Adam was imputed to his entire posterity. What I want to know is, was that transgression that Adam committed in the garden which caused him to lose his moral standing in the immortal soul imputed to the immortal souls of men and women that are now being born into the world, or has been imputed to all men that has heretofore been born into the world?

A. We mean that from the days of Adam on down until the present day that the sin or sinful nature inherited from Adam by reason of the fall is imputed to the soul of Adam's posterity all of them that come to the age of discretion or receive the manifestation of the moral law which enables them to know good from evil when they know good and evil, they are then responsible to God for the sinful nature they possess and the actual deeds and transgression they commit; that this sinful nature is the root of sin that is in them and that their actual transgressions are brought about by them following and obeying the dictates of sin and Satan, and that they inherit this corruption of nature from Adam.

Q. Do you mean the immortal soul inherits it or do you mean the person inherits this corruption?

A. I mean the person inherits it and when the law enters their mind, heart and consciences and they put this evil nature into practice, that they become chargeable with sin and are held in the presence of God as a sinner. As the scripture says, "When lust is conceived it brings forth sin, and sin, when it is finished, brings forth death."

Q. Now I will get you to tell the Court which does the conceiving of sin, the immortal or the individual?

A. Man, as an individual.

Q. Now, Mr. Hall, don't you know that the scriptures of eternal truth does not say when lust is conceived, as you above stated in answer to the question just asked you?

(Plaintiff by counsel objects to the foregoing question and excepts to any answer thereto because it is immaterial and incompetent in this case.)

A. I made that statement and quotation you refer to above from memory. I am not positive that I am correct as to just how the scripture reads, but I will look up the scripture if you will give me time and try to read it into the record correctly as it is in the scripture. I find in James I., Chapter 14 and 15th verses reads as follows: "But every man is tempted when he is drawn away of his own lust and enticed; then when lust hath conceived it bringeth forth sin, and sin when it is finished, bringeth forth death." I find Standard Home and School Dictionary to define conceive as follows: "To form in the womb, to become pregnant with, to form a full idea of in the mind, to comprehend, to imagine, to understand, to believe," and when I said the individual man conceives sin I meant he formed the idea of the same in his mind and comprehended or had knowledge sufficient to know the right and wrong of the act his own lust tempted him to do and in that sense I meant that the individual man conceived sin, and as James said, "Every man is tempted when he is drawn away of his own lust." From that we believe and understand man is possessed of a corrupt or sinful nature and of lust.

Q. Now, is it by reason of that corrupt or sinful nature of man which you speak of, that causes the man to commit sin?

A. Yes. We think he is drawn away, as James said of his own lust, and enticed and led thereby to commit acts of sin or acts of wrong.

Q. Then, if I understand you, the lust that is in human being or corrupt nature of him is what conceives sin. Is that right?

A. That is what leads him to conceive. To conceive of the commission of the acts of sin and of wrong doing.

Q. What I asked you was, what conceived the sin, was it the lust of the flesh that was in the man or was it the man?

A. It is the lust or sinful nature in the man that conceives the sin as a motive, and when he conceives of the motive then it is the lust or sinful motive of the man that prompts the man to commit the deed of sin, as I understand it.

Q. According to the doctrine you preach and that of the Regular Baptists which you speak of, was that lust created in the man when he was first created?

A. No. We don't think God ever created lust in man, neither do we believe that Adam when he was first created, had this principle of lust created in him of God, but we believe that by transgression his nature became corrupted and in that corrupted state, by reason of that corruption, man is possessed of this principle which we call lust.

Q. Do you believe and preach that from the transgression in the garden that Adam, together with all of his posterity, possessed

made as a complex being. Do you believe and preach that the Son of God took this corrupt nature?

A. After the fall, we do.

Q. Now, you speak of the first man, Adam, having or being of God was actually born of a natural woman into this natural world?

A. Yes. We teach that the Son of God by divine conception in the womb of the Virgin Mary took human nature and was born into this world of the Virgin Mary a human being, and thereby became the partaker of human nature, and in this human nature he was a man without sin.

Q. Do you advocate the doctrine that Jesus Christ was possessor of two separate and distinct natures, and did he receive from the Virgin Mary an immortal soul, the same as the rest of the human family?

A. We teach that Jesus Christ was possessed of two separate natures, that is to say, the human nature and the divine nature, and in the human nature we understand him to have been a perfect human being composed of every attribute that man possessed, and the scripture says, as we remember it in speaking of him, that he would make his soul an offering for sin. We understand him to say before his crucifixion, "My soul is exceeding sorrowful, even unto death." From these scriptures we believe he possessed a human soul and that he partook of the human soul in the divine conception spoken of above.

Q. Do you mean to say that when he died that that human soul that was in him died, and is that doctrine you and the Regular Baptists preach?

A. No. That is not what we preach. But we teach that the body he took was crucified and put to death on the tree of the cross and we hear him saying to the Father immediately before the human body perished, "Father, into Thy hands I commend my spirit." We don't believe his soul died upon the tree of the cross.

Q. Now you have said in your deposition in answer to the question I asked you awhile ago, that he received a human soul from Mary, his mother, I will now ask you if that is the soul or the spirit that you have reference to that he commended unto the Father?

A. I think you are mistaken when you say I made the statement that he received a human soul from his mother, the Virgin Mary, but I said he received it in the divine conception and at the time he took human nature, and it is the human soul that he took when he took human nature that he commended unto the Father before the death of his body on the cross.

Q. Now, Mr. Hall, don't you know that it always has been Baptist doctrine that the eternal spirit or Holy Ghost overshadowed the Virgin Mary and that she in her womb conceived all the attributes of God and that those attributes partook of the human and that it was the human or mortal soul or body that was crucified, and that the spirit that returned to God was the eternal spirit of God?

A. No, I don't think you have correctly stated their position.

Q. Do you now say that it was a human soul that he received

in the conception that he commended to the Father?

A. Yes. That is my opinion.

Q. Is that the doctrine of the Regular Baptist Church, as you understand it?

A. I think so. They have always taught that the Virgin Mary was overshadowed by the Holy Spirit and conceived in her womb the Son of God; that by this miraculous conception God was manifest in the flesh, or that the divine nature and human nature, that is to say, the God head and the manhood were joined together, that in the divine nature the Son of God was a perfect God; that in the human nature he took he was a perfect man and as man was possessed of all and every attribute that any other human creature was possessed except sin; and that it was his body that was crucified upon the tree of the cross, and that when the body died upon the tree of the cross the human soul he possessed returned to God and the body was buried, and on the third day that same human body was buried, and on the third day that same human body that was crucified and buried was resurrected, joined to the human soul that it afterwards returned to God and that He, as a complete human being, ascended back to the Father and that that human nature was glorified as heavenly and divine.

Q. Is that human soul that you speak of the same human soul that you say that all the human family is possessed with?

A. Yes, sin excepted.

Q. Do you mean to say that every human being in this world possesses a separate and a distinct soul, one from another, or is it the same soul that Adam received?

A. Each individual person of Adam's posterity has an individual soul as well as they have an individual body.

Q. Then I will get you to tell the Court, according to your doctrine, if that soul of Christ, the Son of God, was a human soul and never died, what did die to redeem the immortal soul, the human or divine?

A. The human nature of Christ died to redeem man. It was not the God head or divine nature of God that died, but it was the human nature that was put to death upon the tree of the cross, but at the Garden of Gethsemane we find he used this language, recorded in the 26th chapter and 38th verse of St. Mathew, "Then saith He unto them, my soul is exceeding sorrowful even unto death, tarry ye here and watch with me," and Mathew in recording this event in the 39th verse, "And he went a little farther and fell on his face and prayer, saying, "O my Father, if it be possible let this cup pass from me, nevertheless not as I will, but as Thou wilt." From this we understand the soul of the Son of God was grieved or was sorrowful and for that reason we conclude he was possessed of a human soul.

Q. I will get you to tell the Court then how many souls or spirits he was possessed of?

A. You mean Christ?

Q. Yes.

A. He was possessed of but one human soul.

Q. You mean when you say "soul," spirit, do you not?

A. I mean the spirit of man, that is in man, when I speak of the soul of man.

Q. I will get you to tell the Court whether or not you preach and teach that he was possessed before he was crucified with the spirit of God?

A. Yes, sir, he was filled with the spirit of God.

Q. Was he possessed of anything but human and divine?

A. He was possessed of the divine nature and of a complete human nature, and we understand that human nature to be composed of a human soul and a human body.

Q. Will you please at this point refer to and make the King James translation of the Old and New Testament scriptures a part of your deposition?

A. I will not, because I don't think it necessary, but I am willing to refer to any passage in God's word that will assist the Court in understanding the issue involved in this case.

Q. Do you mean to say if furnished a copy of the King James translation of the Old and New Testament scriptures you will not refer to it and make it a part of your deposition in this case?

A. We don't want to do so from the fact it will make the record voluminous—unnecessarily so—but I would have no other objection in making it a part of my deposition.

Q. Do you at this point refuse to make it a part of your deposition?

A. Yes, for the reason above stated, but not because I have any objection to the Court reading any or all or every passage of the scripture upon the trial of this case that he might wish or that he might think would throw light upon the issues involved, but to make the entire Bible a part of the record it strikes me it would unnecessarily encumber the record.

Q. You state in your deposition in chief that the doctrine that Robert Blair preaches and did prior to the year 1896 was that God was the author of all the sinful acts of men. I will get you to tell the Court where and when you heard him preach that doctrine?

A. I think I stated in my deposition in chief that I had heard these dissenting brethren preach the doctrine of absolute predestination of all things, both good and evil, and to advocate it in private conversation with people.

Q. Now, I will ask you who you mean by dissenting brethren. Do you mean the ministers and members of the Sandlick Church prior to the year 1896, or do you mean ministers and members of other churches?

A. I mean the ministers mentioned in the question propounded to me by counsel for Plaintiff in my examination in chief. I don't remember of ever hearing Robert Blair say in the pulpit that God was the author of all things or that he believed in the absolute predestination of all things, both good and evil, for as I stated somewhere in my deposition, I never heard him preach very often, but I have heard him say in private conversation that he believed in the absolute predestination of all things.

Q. Now, Mr. Hall, I will get you to tell the Court where and when and who were present when you heard Peter Adkins preach

that God was the author of all the acts of the human family, both good and evil?

A. I don't now just recall the particular time and place where I have heard him declare his faith on this point of doctrine, but I do remember of hearing him say he believed in the absolute predestination of all things. If I am not mistaken I heard him say this at one time when he was on his way to the New Salem Association, and I think I heard him state so in a conversation with myself and some others at Hindman, Ky. It has been some time since I heard this, and I can't now recall just who was present.

Q. Did you at any time ever hear him say in the pulpit while he was preaching that God was the author of sin?

A. I don't recall that I ever heard him use that precise language, but the whole tenor of his preaching went to show that he believed in the absolute predestination of all things and that he believed God predestined everything that come to pass; that was the inference I drew from his preaching in general, but I can't state the precise words he used in expressing himself on this point of doctrine.

Q. I will now ask you to tell the Court where and when you heard Joe Fairchild preach that God was the author of sin, and also the author of all the sinful acts of the human family?

A. At one time I remember falling in company with him on the Long Fork of Shelby Creek, and he and I had a lengthy conversation with each other on this subject, and he said he believed in the absolute predestination of all things both good and evil, but he said he thought God did it and so controlled it, that God still held the creature accountable for his acts.

Q. Did you ever hear him preach in the pulpit anywhere, or at any time, as alleged in your petition and amended petition in this action, that God was the author of sin or the sinful acts of the human family?

A. I can't state that I ever heard him use that precise language, but in substance he taught it, as I understood him.

Q. Do you and your associates preach and teach the doctrine of predestination, and if so, tell the Court whether you limit that predestination or not?

A. We do believe and preach the doctrine of predestination so far as we understand the scriptures to teach it. But we don't believe that God predestinated evil or that he is in any way the author of sin.

Q. Do you teach and believe the predestination that you preach and teach is absolute?

A. We don't preach absolute predestination of all things, neither do we believe it.

Q. You do not answer my question. I will ask you to tell the Court whether or not the doctrine preached by the Regular Baptists that you say is predestination so far as the Bible teaches. What I want to know is, do you teach that that predestination is absolute so far as it goes, or as the Bible teaches it?

A. We understand that all God predestinated is good and not evil. We don't believe, as we said above, in the absolute predestination of all things both good and evil, but we believe the predesti-

nate purpose of God works good and never evil. As the scripture saith, "Either make the tree good and its fruit good or make the tree corrupt and its fruit corrupt." Applying this teaching to the question before us that we believe God to be the author of predestination, and we believe him to be a pure, just and holy God. We don't think he ever predestinated anything except that which is like himself, pure, just and holy, and to that extent we limit the predestination of God.

Q. I never asked you any question as to the justness or holiness of God or the limit of predestination, but I asked you if that limited predestination was absolute.

A. As I understand the term nothing can be absolute. The term absolute, as I understand it, means unlimited, and to say that a limited predestination was absolute would be a contradiction of terms, as we see it, and we have just said that the Regular Baptists reject the doctrine of absolute predestination.

Q. I will ask you if you don't know it to be a fact that all the Baptist people that you have ever heard preach on predestination don't use the term absolute as being positive, certain?

A. No. The Regular Baptists have understood the term absolute predestination to mean unlimited predestination.

Q. Don't you know these brethren that you say is dissenting brethren, of whom you speak, do not always use the term absolute as being positive, certain?

A. We have understood them to mean by it, and we had a right to understand this in the use of this term, to mean unlimited, unrestricted predestination. We have heard some of them say, at least we have heard Robert Blair say, in a conversation at Hindman, Ky., that about the time Governor William Gobel was killed that God predestinated it and the men that killed him could not help it, and turned to me, addressing me, and said to me, "Don't you believe this?" and I replied I did not, but what I thought it was the devil that caused all the trouble. I have heard others of them in speaking of the wicked acts of men, that it was the predestinate purpose of God.

Q. Which one of the others did you hear say that?

A. Heard Rural Martin, K. F. McCowan and others use such expressions.

Q. To what association did K. F. McCowan and Rural Martin belong to, and what Church?

A. K. F. McCowan at one time belonged to New Salem Association, as I remember, and Rural Martin I think belonged to Union Association, but since they begin to advocate this doctrine these associations or the Regular Baptists to which I belong have purged themselves of all ministers and members that preached this doctrine, and I don't know now where they are identified or with what party or association they have their church fellowship, if they have any at all.

Q. Is the Sandlick Association and the Union Association which you say is the Church where your membership is, in correspondence with each other?

A. They are not now.

Q. How long has it been since they have been in correspondence one with the other?

A. I don't know exactly how long, but I think ten or twelve years, and it might be a little longer than that.

Q. Don't you know that it has been over 20 years?

A. Since thinking over the matter I think it has been longer than I first said. I am now under the impression that it has been something near 20 years. If I remember the strife and contention over the doctrine caused the split in the Union Association also caused the split in the Sandlick Association or caused several of the churches to withdraw from the Sandlick Association, something like 20 years ago. At least, I remember there was a split in these associations and churches and I don't think that the Sandlick Association and the Union Association, to which I belong, has been in correspondence since that split occurred.

Q. Don't you know it to be a fact that that division in the Union Association was in the year 1893 or 1894?

A. As well as I can remember it was about that time, probably in 1894.

Q. Was you present when the split occurred?

A. I was not, as I remember it.

Q. Which side held the association on the side which you belonged to, or the other side, of the Union Association?

A. I think both sides held their associations that year, or claimed to hold an association.

Q. I mean the time and place the division come, which side held the association with the Church with which it had convened?

A. The way it was reported to me, they met at the Church with whom the association had been appointed the year before to be held with, and the division came up part of the churches consulted together and adjourned to another church to hold the association, and that the dissenting party having arbitrarily, as they claimed, took charge of the church house and refusing to be governed by the constitution and rules of Baptist usage, the brethren with whom I am identified, claimed they could not hold the association then and there and so adjourned until another time and place in order to hold the association. That they met at the time and place to which they had adjourned and did hold the association there. The records I have in my possession as Secretary of the Union Association shows, as near as I can remember, the facts above stated.

Q. Do you know what association was in correspondence with the Union Association at that time?

A. No. I don't know all the associations that was in correspondence with her at that time, but if I remember correctly, New Salem and Sandlick Associations were in correspondence with her then, and I think there was some other association.

Q. I will ask you if the Three Forks of Powells River wasn't in correspondence with her at that time?

A. I am not certain about it, but I believe she was.

Q. Do you remember any other association now that was in correspondence with her at that time?

A. I think Mates Creek Association was.

Q. I will ask you if the Washington Association wasn't in cor-

respondence with her at that time?

A. I do not know.

Q. I will ask you if the Stony Creek Association wasn't in correspondence with her at that time?

A. I do not know.

Q. I will ask you to tell the Court whether or not that the Mates Creek Association has ever since the year 1894 been in correspondence with the Union Association, to which you belong?

A. I don't think she has, but as I remember Mates Creek Association divided over the doctrine and the churches of the Mates Creek that withdrew from her on account of this doctrine organized themselves into an association known as the Sardia Association and we have been in correspondence with the Sardia Association.

Q. Are you still in correspondence with the Sardia Association?

A. No, I think not. We dropped correspondence with that association because of some disorder, as we understood that had got into her body, until such time as she should cleanse herself from these things and put herself in order.

Q. Is there a Sardia Association now that is holding meetings each year.

A. That is my information.

Q. You don't know it to be a fact, of your own personal knowledge, do you?

A. No, I do not, but some of the brethren of this association told me sometime during the preceding autumn that they were trying to straighten up and to get themselves in order, and that they were holding their association and as soon as they got their house in order they would again ask us for correspondence.

Q. I will ask you to tell the Court whether or not the Union Association of which you claim you are a member of, and the Three Forks Association of Powells River Association, has ever been in correspondence with each other or in fellowship with each other since the year 1894?

A. I think not. But I understand there was a split in that association and a considerable number of the churches and brethren withdrew from her and asked for fellowship with us.

Q. I will ask you to tell the Court whether or not the Sand Lick Association has ever been in correspondence or in fellowship with the Union Association, in which you say your membership is, since the year 1894?

A. I am not certain, but I think not. But as I understand it, a large number of the churches of the Sandlick Association withdrew from the Sandlick Association on account of the doctrine being preached and other disorders into which they claim this association had fallen, and these churches have since organized themselves into a body called the Indian Bottom Association, and we are now in correspondence with the Indian Bottom Association.

Q. When did you raise correspondence with the Indian Bottom Association?

A. I think she raised correspondence with us or asked us to correspond with her about the time she was organized as an asso-

ciation, but I can't now remember the date. The records will show, I think.

Q. I will get you to tell the Court whether or not it is customary and has been for the different associations of the Regular Primitive Baptists to select the very best disciplined men that they considered they had for the moderators of the churches and associations?

A. It is their custom and usage to select an elder of their body whom they considered sufficiently qualified for that purpose.

Q. I will ask you if they did not always, in the association elect the moderator of the association by will and majority of the members present?

A. Yes, by the suffrage or majority of the members present.

Q. I will ask you to tell the Court whether or not the association to which you belong has ever, since the year 1894, been in correspondence with the Washington Association?

A. I don't think so.

Q. Have you ever been in correspondence with the Stony Creek Association since the year 1894?

A. No, I think not. But as I understand, she has divided and an association claimed to have come out of her bounds at one time, asked for correspondence with us, and on investigation we learned that some things in them which we considered a bar to fellowship or correspondence, and we refused to open correspondence with them until these disorders were removed. I believe they called themselves the Eastern District Association.

Q. Has the Union Association to which you belong ever been in correspondence directly or indirectly with the Powells Valley Association?

A. If the Union Association was ever in correspondence with that association, I don't know it.

Q. You mean the Union Association to which you belong, do you?

A. Yes, sir.

Q. Do you know whether or not the other brethren of the Union Association still hold and claim to be the Union Association?

A. It is my understanding there is a small faction of them that so claim.

Q. Don't you know it to be a fact that all the moderators of the different associations in which you say there is a division, stood with and identified themselves in the year 1895 with the associations, as they are now organized by them?

A. I don't know, but at the time the split occurred in the Union Association I was informed by the brethren that were present that their former moderator was not present on that occasion and that some other brother assumed the place of moderator and denied the right of the churches to choose a moderator for the purpose of organizing the association, and this arbitrary conduct on their part was one of the things that led to the split. Just where the former moderator of the Union Association now stands identified, or whether he belongs to the Union Association at all or not, I can't say, but it is my information that he now has his membership in some Church in the South, and don't belong to either fac-

tion of the Union Association. It is my information that after the split in the Sandlick Church in 1896 Peter Adkins was excluded from the Sandlick Church before the session of the Sandlick Association, for that year was held, and that when the association put him as moderator, he being an excluded member of churches of the Sandlick Association or a member of churches of her body felt this was most disorderly and on account of the doctrine that was preached and such disorder, they withdrew from the association.

Q. Which churches of the Sandlick Association withdrew from the Sandlick Association after the year 1896, if you know?

A. I don't know the dates at which they withdrew, but it was about that time. It is my understanding that the Indian Bottom Church, Carrs Fork, Mallett Fork, Clear Creek and some others, the names of which I don't now recall, withdrew from this association.

Q. All you know about that is just information from the rumor of the country, is that right?

A. I have this information from the brethren of these churches, at least that is what they told me they withdrew from the association for, on account of the doctrine preached and disorder and confusion that had gotten into the association.

Q. I will get you to tell the Court, if according to the usage of the Baptists and according to the constitution of the Sandlick Association, if a Church failed to letter up or represent themselves in the association, if the association didn't have power to inquire the reason for not lettering or representing themselves in the association?

A. Yes, according to this constitution they would have the right to make this inquiry.

Q. I will ask you if it is not according to the usage of Baptists when a church fails to represent themselves in the association, to appoint a committee to wait upon the church and inquire her reason for failing to represent herself in the association?

A. Yes, that is sometimes their custom.

Q. If, when that is done and the report of the committee made to the association and from the report of that committee the association is satisfied that the Church has deviated from the orthodox principle of religion, if the association has not got the right to withdraw fellowship from that Church?

A. Yes. When the association is satisfied that the Church has deviated from the orthodox principles of religion and after they have labored with the Church and has failed to restore the Church to the orthodox principles of religion, they have the right and it is the practice of the Regular Baptists to drop said Church or such Church from their fellowship, but if the report of the committee should show that the Church was staying away from the association because of disorder or fault on the part of the association, then it would be the duty of the association to consider this matter and if the association found herself as the party that had deviated or the party that was in disorder, then it would be the duty of the association to cleanse herself and to see herself in order that there might be union among the churches, and in order to preserve their

purity we understand each Church would have the right to withdraw from the association to which she belonged. If this association should deviate from the orthodox principles of religion or become involved in disorder and would have a right to refuse to letter until the association should put herself in order; at least that is what I have always understood Baptist usages to be.

Q. I will now ask you if it is not just as much the duty of the Church to point out to the association the disorder that is in her body as it is for the association to point out to the Church the disorder that is in the Church, under the constitution and rules of decorum of the Sandlick Association?

A. Yes, sir, as I understand it, it would be.

Q. Has a Church any right to withdraw from any association without first pointing out the disorder that association is in under the constitution of the Sandlick Association?

A. It would be the duty of the Church to point out to the association the disorder of fault on the part of the association to which she complains.

Q. Now Mr. Hall, I will get you to tell the Court where there has been a division or scism in a Church as desired by the members to settle that trouble and come together, what has been the custom of the Baptists on that, if you know, or has there ever been any custom established among the Baptists as to that?

A. As I understand the custom among Regular Baptists is that when there has been a division they labor with the seceding party to try to reclaim that party if possible, and if they fail to reclaim them to the order and faith of the Church the Church then excludes the dissenting party or party at fault and then after they are excluded they can only get fellowship by being restored to the fellowship of the Church by an order made in the Church to that effect.

Q. How do you manage it then when both factions claim to be the Church, is there any custom established as to that?

A. Where that is the case there can be no reconciliation until one party or the other is led to see their error and repent of the same and comes back to the orderly part of the Church and makes proper acknowledgment, and on that being done the orderly part of the Church, which, of course, would be the true Church, must restore them to fellowship in the Church before they can be lawful members of the Church.

Q. What is the custom of Baptists, if there is any such a thing, where there has been a schism in the Church and the members of each faction agrees upon a time and place on the regular church meeting time at the church house, and both agree that they were in error, would there be any way by which these two elements could come together and be counted the Church by each faction making their acknowledgement one to another?

A. I know of no way or of no custom among the Regular Baptists by which a party or two parties of the Church could be restored to fellowship on the ground or in the way that you state in this question, but it is my understanding that when a division has happened in the Church and that the dissenting parties has been excluded, that the only way restoration can be made is by one

party or the other acknowledging the authority of the other party to make the restoration. So long as each party claim to be the true Church I know of no way by which they can agree and be restored to fellowship until one party or the other confesses that the other party is the true Church and acknowledge her right and authority to make the restoration. So long as each party claim to be the true

Q. You said awhile ago that the Indian Bottom Church and the Carrs Fork Church and Clear Creek Church and other churches, as you was informed, withdrew from the Sandlick Association after the split or trouble in the Sandlick Church in the year 1896. I will get you to tell the Court whether or not you know anything at all about that within your own personal knowledge?

A. I do not know of my own personal knowledge.

Q. And you do not know how long that those churches prior to the year 1896 had been dropped from the association of your own personal knowledge, by the association?

A. I don't know of my own personal knowledge whether they was ever dropped by the Sandlick Association.

Q. Do you know of your own personal knowledge that Peter Adkins was ever excluded from the Sandlick Church?

A. I do not, except by the records that I have seen.

Q. That record that you have seen, is it not the record that was made by Sam Caudill after the year 1896?

A. It is what purports to be the record he made.

Q. Now, Mr. Hall, you spoke a while ago of the moderator of the Union Association who was the moderator of the Union Association in the year 1895, that he had gone South. Don't you know that the records you have of the association of which you are a member of, shows the fact that John A. Craft was the moderator of the Union Association in the year 1895?

A. I don't think the record I have shows that fact, or at least I have no knowledge or recollection of any statement on that record that shows John A. Craft to have been the moderator of the Union Association to which I belong for the year 1895.

Q. Was he moderator of the Union Association in the year 1893?

A. I don't think I have any record of the Union Association in my possession that shows who was the moderator of the Union Association for that year.

Q. Do you know anything at all about how the Defendants got in possession of the house and lot in litigation in this action?

A. Nothing except what I have been told and informed.

Q. You don't know how long they have been in possession of it, do you?

A. No, not of my personal knowledge, I do not.

Q. You do not know anything at all about how long Steve Caudill, brother of the Plaintiff, W. G. Caudill, remained in the Church at the Sandlick Church House and recognized his membership there after the year 1905, do you?

A. I do not.

Q. Do you know anything about how long after the reconciliation, as claimed by the Defendants, was made that the Plaintiff, Sabrina Caudill, kept her fellowship there and filled her seat there after the reconciliation?

A. I don't know. I don't know of her ever filling her seat, there after that time.

Q. Then, if I understand you, you do not know anything at all about what was done by those members of the Church that met there on the lot of land in dispute in the year 1905, after that time, do you, as a body together?

A. You mean the Defendants in this action?

Q. Yes, sir, and the others, what they done there as a body after that time?

A. I do not. I was not at any of their meetings and not at the meetings of the Plaintiffs until some time before I was chosen as pastor.

Q. How many members of the Sandlick Church that claimed to be members before the year 1896 were present when you were elected moderator of the Church, that you know of?

A. I don't know that I can now remember all of them, but I think Sabrina Caudill, James Collins, and it might be possible that Polly Ann Craft was present, I can't remember at this time whether she was present or not. There might have been some of the other members, I didn't try to keep in memory the names of all the members that were present, not knowing that I would ever have to testify about it, and didn't try to remember it, so now can't remember of a certainty all that were present.

Q. I will ask you to tell the Court if the Plaintiff, W. G. Caudill, didn't take an active hand in trying to get together these members that you speak of as electing you moderator for that purpose?

A. He seemed to be interested in the welfare of the Church, or claimed to be, said it was the Church to which his father had belonged, his brother, S. C. Caudill, and others of his people had belonged; that since the death of S. C. Caudill the Church had considerably gone down and that no preaching, or not much preaching of any kind, was being had near him and so he and his wife and other persons in the community begged me to come and hold meetings for them, and I did so, and then it was they got to talking about straightening up the Church as S. C. Caudill had left it, and I agreed to help them and do anything I could to help them along in the way of straightening up the Church and carrying on the work as he had left it.

Q. Don't you know that at the time you began to hold meetings there with what you claimed the Sandlick Church, that the Defendants then had possession of the house and lot and were holding their regular meetings there on the third Saturday and Sunday in each month?

A. I did not know about that. I had heard that Bob Blair some times held services there, but I didn't know they claimed to be in possession of the church house any further than to hold services there, and I was informed that they had not been holding their meetings very regular, but of my own personal knowledge, I don't know.

Q. Have you ever been there when the Plaintiff ever held a meeting at the church house on the land in dispute since the year 1905?

A. I remember myself and Elder Willard S. Akers, and probably

some other brethren held services in the church house since that time, but as I remember it, it was not a regular meeting of the Sandlick Church.

Q. Was that in the day time or night?

A. I rather believe it was in the night.

Q. Did you ever, as moderator of that Church, ever convene that Church as a body in the church house since the year 1905?

A. I don't think I ever did after I was called to be pastor of the Church. It was my understanding that the Defendants then objected to us holding meeting in the house and the members of the Church and the people in the community, together with myself, agreed to hold services at other places, wherever it was most convenient.

Q. Now, Mr. Hall, tell the Court why it is that you didn't convene the Church at the church house, if that is the Church?

A. Because I was informed that you people had the keys to the church house and objected to us holding our meetings there, and because I understood you held your meetings at the same time and not wishing to disturb anybody, we selected other places to hold our services.

Q. Tell the Court whether or not you knew at that time how many members of the Sandlick Church there was?

A. I did not know, the record which they claim S. C. Caudill left shows a considerable list of names which I was informed was members of the Church that stood identified with him during his lifetime, or at the time of his death, but I don't remember how many there were in that list of names. I was informed that since his death and up until the time I became pastor of the Church that some several of these members had died, some of them had moved off, and so I don't know how many members of the Church there was at that time.

Q. Was that list of names on the record when you was first called to stand as moderator for the Plaintiff?

A. Yes, sir, the list I refer to, was.

Q. Have you examined that record to see whether or not there has been any members excluded, as you stated before, except Robert Blair, Peter Adkins and S. G. Fairchild, since the year 1895, 1896, I mean?

A. I have examined the list of names, but not with view of finding how many had been excluded.

Q. Do you know whether or not the name of Lucinda Banks is on that record?

A. I don't recall whether it was or not.

Q. Do you remember whether or not Sarah Fairchild's name was on it?

A. I can't remember.

Q. Do you remember whether or not Rachel Blair's name was on it?

A. No, I can't remember, but if I had the record I could look at the list of names and then tell, because when I looked at the list I only looked over it in a general way, and didn't try to remember the names on the list.

Q. Was the name of Lizzie Lewis or Lizzie Fairchild on that list?

A. I can't tell you.

Q. Can you recall to mind about the number of names there was on that list?

A. No, I can't tell the number.

Q. Does that Church, as you have it organized, now claim that Rachel Blair is a member of that Church?

A. I don't know, but I don't think they do.

Q. Do they claim or hold that Elizabeth Lewis (alias Fairchild) is a member of that Church?

A. I can't tell unless I had the record.

Q. Now, Mr. Hall, was all the names of the parties that the Plaintiff claimed to be members of the Sandlick Church since the year 1896 recorded in that book that you say is a record of the Sandlick Church?

A. I suppose so.

Q. Was they so recorded in that book when you was first called to act as moderator for them?

A. I found the list of names on the record book which they claimed S. C. Caudill had left, and I was informed that this list of names was the members of the Church which stood with him and was identified with him when he was pastor of the Church, is all I know about it.

Q. I see in this petition filed by the Plaintiffs in this action July 6, 1915, this allegation: "Plaintiffs say that on or about the 16th day of May, 1896, and at one of the regular meetings of the Sandlick Church House held and convened at the church house herein above described, the Defendants, Joseph Fairchild, Robert Blair, S. G. Fairchild, being at the time Clerk of the Sandlick Church, took away with him the Church record containing the record in which all the members of the said Church were enrolled, and all the records and minutes and proceedings of said Church, and this is the reason that Plaintiff can not give the names of the several Church members." Is that allegation true or untrue?

A. I do not know.

Q. At the date of the filing of this suit you, together with the other Plaintiffs, had in your possession the list of the names of the members of the Church above referred to in your deposition, did you not?

A. I didn't have them in my possession.

Q. Did any of the Plaintiffs have them in possession?

A. I don't know, but I had supposed that either the Clerk or Assistant Clerk of the Church had these records in their possession.

Q. Then the Plaintiffs in this action did have a list of the names of the members of this Church, as they claimed it in their possession at or prior to the filing of this petition and after the year 1896, did they not?

A. I do not know. They had the record when I saw it, but it was some time after I saw the record that this suit was filed, and I don't know who had the record at the time the action was filed, but I had supposed that either the Clerk or Assistant Clerk had kept possession of this record.

Q. In whose possession was that record the last time you saw it before this suit was filed?

A. At the home of W. G. Caudill, as I remember it.

Q. Who had it, if you remember?

A. I think W. G. Caudill showed it to me.

Q. Then at the time of the filing of this suit or between the date of 1896 and the filing of this suit you did see in the possession of W. G. Caudill this list of the names of the members of the Church. Is that right?

A. Yes, I saw the list, but I don't know whether that is a complete list or a correct list, or not.

Q. I am not asking you as to whether or not that list you saw was a complete list or not, but I am asking you if that is the list of the members furnished you by the Plaintiffs, W. G. Caudill, Sabrina Caudill and Polly Ann Craft, or either of them, as the list of the members of the Sandlick Church?

A. That is the list they showed me and which they told me was the list of names left on the record S. C. Caudill had in his lifetime.

Q. Do you and the Regular Baptists preach and teach that God created evil, or not?

A. We do not, in a sense that he created sin or wickedness.

Q. Do you believe and teach that God is the creator, upholder and disposer of all the world's beings and systems?

A. No, not exactly that way. We don't believe he upholds any system of wickedness.

Q. Do you believe and teach that it was wickedness of the Jews and the Gentiles together with Pontious Pilot to array themselves together to crucify Jesus Christ?

A. Yes, we believe it was sin or wickedness on their part that led them to do so.

Q. Did they do any more in the crucifixion of Christ than the hand and council of God had before determined they should do?

A. We believe according to the determinate counsel and foreknowledge of God he was delivered to them, but it was with wicked hands they crucified him and that the providential workings of God in this event instead of upholding their wickedness, overruled it to his own glory and defeated the evil intent and design that they had in this event and made it to serve his purpose without he being in any way the author of their wickedness.

Q. Now, Mr. Hall, I did not ask you anything about foreknowledge or how it was that Jesus was crucified, but this is my question I asked you, and what I want to know, did King Herod and Pontious Pilot and the Gentiles do any more in the crucifixion of Christ than the hand and council of God had determined before should be done?

A. Not any more than he suffered them to do, but as explained above they meant it unto evil and he meant it unto good, and he overruled their evil intent and made it serve his purpose in crucifying the Son of God without he, in any way, being the author of their sins or wicked acts, which they did.

Q. Mr. Hall, you do not answer my question, (and at this point the Defendants ask the stenographer to require the witness to make a direct and positive answer to the question and asks the

stenographer to hold the witness in contempt for not answering direct and to certify it to the Court for his judgment thereon, upon which the Defendants pray the judgment of the Court.)

Q. Now, Mr. Hall, I will ask you another question. If God could overrule the wicked and murderous acts of King Herod and Pontious Pilot, together with the Gentiles and cause it to work good, as you above stated, and not be the author of sin, upon the same principle that he did that, I will get you to tell the Court whether or not on that same principle he could overrule the wicked acts of all men, and make it work good to them that love God?

A. On the same principle we have explained above we believe him to be able to defeat all the designs of wickedness that may be formed against him or his people, bring all wickedness into judgment and by defeating this wicked intent and designs of men, bring about resultant good, but the good thus resulting flows from the hand of God in defeating their wicked intent, and not from the wicked intent of men and not because he is the author of their wickedness or that he predestinated their wickedness or was the author of their sin.

Q. Do I understand you, Mr. Hall, to construe the word "author of sin" and predestination" of God to mean the same thing, or not, or do you put different constructions upon the word as you detailed it in the answer to the above question?

A. No. "Predestination" and "author of sin" is not one and the same thing as I mean in the use of those terms, but what I mean to say is that God can be the author of predestination and predestinate good without predestinating evil, but if God should predestinate evil, then he would be the author of the evil predestinated.

Q. Now, Mr. Hall, don't you know that the word "predestination" in its common usage of the term means being determined beforehand, no matter how long or how soon before the action takes place?

A. The definition of the term "predestinate," as I understand it, means to foreordain, to decree, to appoint or ordain beforehand.

Q. I will now get you to tell the Court if the word "ordain," used in your definition for predestinate, does not mean to set apart or appoint?

A. I used the term "ordain" to mean to set in order or arrange to settle or establish authoritively; to order, to appoint, to institute, or to set apart.

Q. Then, if I understand you in your answer you use it in all the different terms given by you, is that correct?

A. It can be so used when necessity so requires in expressing the thought intended by the use of the term.

Q. In which sense do you mean to use it here in the answer given?

A. To appoint or set apart.

Q. You stated in your deposition in chief when the work of grace was wrought in the soul of the sinner that he was then adopted and made the elect child of God. Do you mean to say in that answer that the soul is what is adopted into God or into Christ and made the elect of God, or do you mean to say that it is the body?

A. We mean to say that it is the soul that is born of God and then made a child of God and adopted, and that adopted soul waits for the redemption or adoption of the body, and we understand the adoption of the body or redemption of the body will be made when the body is resurrected.

Q. I will ask you to tell the Court whether or not, according to your doctrine, the body is ever in any sense the child of God until it is adopted?

A. It is not actually born of the Spirit of God and is not changed until the resurrection, but when the soul is born again and adopted we understand that that gives to the person that is born of God a sure pledge or promise, that the body will be adopted at the resurrection.

Q. When you say the person thus born of God, do you mean to say the soul in the man or the man, the body?

A. I mean it is the soul in the man that is born of God, regenerated and adopted.

Q. I will ask you to tell the Court according to the doctrine you preach and which you say is the Regular Baptist's doctrine that God ever foreknew anyone except such as you speak of being born of God?

A. We believe that God foreknew all things.

Q. I will ask you if you teach that God predestinated all he foreknew to be conformed to the image of his Son?

A. We teach that God foreknew who of his creatures would obey him, submit to him, and believe in him for salvation, and that he had predestinated to save all such characters as this, and in that sense we believe he predestinated to conform all of them to his glory.

Q. You do not answer my question. I will ask the stenographer to read the question and ask the witness to make a direct answer.

A. I think I have answered your question according to the way the Regular Baptists teach it.

Q. Then you do not teach as Baptist doctrine whom he did foreknow he did also predestinate to be conformed to the image of his Son, do you?

A. Yes, we teach it and construe it as I have stated above.

Q. Then, if I understand you, you do not preach that all that God foreknew he did predestinate them to be conformed to the image of his Son?

A. I think I have substantially answered that question. Yes, we teach and construe it as I have shown you above.

Q. Do you teach that anybody will ever be conformed to the image of his Son except such as he did predestinate?

A. No, we do not, but we believe he predestinated the plan of redemption in Christ and according to the plan or purpose of God he purposed to save all of his creatures, or everyone of his creatures that would obey the Son of God.

Q. Do you believe he called anyone except those who were predestinated to be conformed to the image of his Son?

A. No. But as above pointed out, we believe he predestinated to conform to the image of his Son whosoever of his creatures would believe in Jesus Christ, obey him and repent of their sins,

and when they do obey him, repent and believe in him, he then adopts and saves them by the washing of regeneration and renewing of the Holy Ghost, he sheds upon them through Jesus Christ, and in this work of grace they are adopted, and by this adoption conform to the image of his Son.

Q. Do you believe and teach that all whom he called, them he also justified?

A. It depends upon what sense in which you use the term called. We understand the term "call" to be used in three different senses in the scriptures. In one sense it has reference to the command of God to all the children of men who have sinned against him to repent of their sins and accept Jesus Christ as their Savior. In that sense we understand the scriptures to say, "Many are called, but few are chosen." Therefore, if you use the term in that sense he calls some of whom he doth not justify because they failed to comply with the command above set out, but I understand the term to be used in the scriptures sometimes in a special sense in which it has reference to this work of grace by which sinners are converted or made new creatures, as it says in the scriptures, "Who hath called us out of nature's darkness and translated us into the Kingdom of his dear Son," and again we hear him saying, "By the pen of inspiration, who hath saved and called us with an holy calling not according to our works, but according to his own purpose and grace given us in Christ Jesus before the world began." If you use the term "call" in this sense of course all whom he thus calls will be justified.

Q. Now, in the first part of your answer when you use the word, "Many are called," do you use the word "many" there as meaning all?

A. No. The word "many" would not imply all, as I understand the use of the term, and I understand that some of the children of men, that is to say, infants, who die in infancy or idiots, are never commanded to repent.

RE-DIRECT EXAMINATION.

By D. D. Fields, for Plaintiffs.

Q. At different places in your deposition you have spoken of the human soul and at other places you speak of the immortal soul. Tell the Court whether or not you mean by that one and the same soul, or do you mean that the individual is possessed of two different souls, one a human soul and the other an immortal soul?

A. One and the same thing.

Q. I believe that you have said that you was Clerk and Secretary of the Union Association. I mean the association that you was interrogated about by attorney for defendant, in which there was a split or division. I will get you to tell the Court whether or not as such you have the custody of the records of that association?

A. Yes, sir, as Clerk and Secretary of that association I have the record of that association from the year 1894 up until now, as I remember the records to show.

Q. Did that association make an order with reference to the split or division and the holding of their next association?

(Defendant objects and excepts to the foregoing question or to any answer thereto as to any record of any association made, because the records of same is the best evidence.)

A. Yes, they made an order, publishing in a preamble and made a part of their proceedings for the year in which the split occurred, showing the cause of the split and setting forth their reasons and rulings relative to the same.

(The Defendant at this point moves the Court to strike from the evidence of the witness the statement made in answer to the foregoing question.)

Q. Have you a copy of that order?

A. I have a copy of the preamble which they ordered printed and which is spread upon the record book of the association.

Q. Please certify same as Clerk of the association and file it with and make it a part of your deposition marked JH No. 4.

(The Defendant at this point objects and excepts to the foregoing question or any answer thereto or filing of any copy of the record made by anyone claiming to be the Union Association after they had withdrawn from the association.)

Q. Now, Mr. Hall, I want to ask you with reference to the doctrine that you have stated was the doctrine of the Regular Baptist Church, and I want to ask you whether or not that doctrine teaches the following faith: "That Christ died for the sins of the whole world, that by his death and resurrection it was made possible for every person to be saved who would come upon the terms of the gospel, and that every adult, sane person, who was born into the world would be visited by the power of the Holy Ghost in some way so as to be shown that they were sinners and that if that person would truly repent of their sins that it was possible for them to obtain a pardon and a free remission of their sins." Does it teach that doctrine?

A. Yes, sir, it does, according to my understanding.

Q. Does it teach that pardon of their sins would come to them after repentance?

A. Yes, sir.

Q. Does it teach and support the doctrine that the office and purpose of the preaching of the gospel was to the edifying of the Christian people and to the warning of the sinners of the danger of living and dying in sin?

A. It does, as I understand it.

Q. Does the Regular Baptist doctrine spoken of teach that every person who was born into the world was possessed, at the date of their birth, of a never-dying soul, which was to be saved or lost?

(Defendant at this point objects and except to the foregoing question, because same is direct and leading and not in answer to any point drawn out by the Defendants.)

A. Yes, it does. We don't very much like the term in which you have expressed it in this question, but it teaches the same, if I understand it.

RE-CROSS EXAMINATION

By Robert Blair

Q. Do you have in your possession a record of the Union Association of the year 1894 that was made by said association that was held with the Mt. Pleasant Church that year?

A. I don't think I have.

Q. Do you mean to tell the Court that all the Baptists, both Primitive and Regular, preaches the doctrine that you have set forth as the Regular Baptist doctrine?

A. Not all who claim to be Regular and Primitive Baptists preach it, but according to my understanding all orthodox Regular Baptists and Primitive Baptists of this country, and where I have been, do teach it.

Q. Then do you mean to convey the idea that if Joe Fairchild and Robert Blair preach the doctrine that is claimed by the Plaintiffs in the petition and amended petition, before they was ordained by the Sandlick Church that the Sandlick Church and the presbytery that ordained them was not orthodox at that date?

A. If they preached the doctrine set forth by the Plaintiffs in this action and which the Plaintiffs claimed they preached, they would not be orthodox Regular Baptists, and if the Church and the presbytery that ordained them knew at the time of their ordination that they preached this doctrine, the Church and presbytery erred when they ordained them to preach, but that would not say that the Church and the presbytery was unorthodox, but could imply that the Church and presbytery was too lenient toward the persons put forth for ordination if the Church and presbytery knew fully of the doctrine that these persons preached.

Q. Do you mean to say, according to Baptist usage that that Church, after it had ordained these parties, would have a right to reject them without first pointing out to them the error in the doctrine, and would not the Church be due them an acknowledgement for the error they had committed?

A. My understanding of Baptist usage is, that the Church would have the right at any time after they have ordained a minister to preach, to call in his credentials and silence him or withdraw from him the authority they had given him to preach, but it is the custom to notify the minister of the complaint against him and point out to him the error he had fallen into as to doctrine, if the complaint be on the point of doctrine, and try to convert him to the knowledge of the truth and admonish him as a brother to cease preaching the doctrine complained of, and if he does not cease to preach it after the first and second admonitions it is their custom to reject him as a heretic and would then silence him or take his credentials from him, but so far as I have known Baptist usage they first labor with the minister thus offending before they exclude him from the fellowship of the Church, or before they would take his credentials from him.

Q. Would they have a right, according to Baptist usage to exclude the member from the fellowship of the Church after they had silenced him and stopped him from preaching?

A. They would, if he failed to conform himself to the faith and order of the Church.

Q. I see in answer to Mr. Fields' question on re-direct examination that when you use the word "immortal" soul and "human" soul, you meant the self-same thing, that is, you meant it was the same thing, is that correct?

A. Yes.

Q. In answer to that question and in your deposition all along where you use the word "immortal" soul, do you use the word "immortal" only as never-ending or ceaseless?

A. Yes. I mean by the word "immortal" soul that the soul will have an endless existence from the time it is created onward and will never be annihilated or cease to exist from the date of its creation.

Q. Now, I will ask you to tell the Court whether or not the body or the person of the human being ever ceases to be?

A. We understand the mortal body dies a natural death and returns back to dust, and then it would have no conscious existence from the date of its death until it is resurrected.

Q. I didn't ask you as to whether it had a conscious existence, but I asked you if it existed. Will you tell the Court whether it ceases to exist, or not?

A. If after the mortal body dies and returns to dust it has any existence it exists as dust and not as living, conscious, human being or human body.

Q. Does it have any existence?

A. As dust, it would.

Q. Will that dust ever cease to exist?

A. I think not.

Q. Do you believe and teach that the body or dust of all those who die in sin will ever be resurrected?

(Defendant, by counsel, objects to the foregoing question and except to any answer thereto, because same is incompetent and irrelevant and has no reference to any issue in the pleadings and is not responsive or in rebuttal or connected with any question asked on re-direct examination.)

A. Yes, we believe and teach the doctrine of a general resurrection of the dead and a general judgment..

Further the deponent saith not.

JOE HLL.

At this point the Plaintiffs recalled Robert Blair for further cross examination, pursuant to order of Court, and he being present refused to submit himself to further cross-examination. Plaintiff therefore asks a rule against the Defendant, Robert Blair, requiring him to submit himself for further cross-examination.

At this point the Defendant, Robert Blair, makes the following statement as for his reason for not doing so, because of the fact that the Court announced from the bench to the Plaintiffs at the last term of the Court, without an amendment being filed Plaintiff was not in Court and permitted the Plaintiffs to file an amended petition over the objections of the Defendant after he had made the order requiring Robert Blair to answer the questions desired by Defendants, and because said order provides, or was so an-

nounced by the Court from the bench, that said cross-examination should be completed within 40 days of the making of the order and said order requiring the plaintiff to give to said Blair at least five days notice of the time and place and the filing of said amended petition necessitates the retaking of the depositions of the said Robert Blair. He does not refuse to submit for further cross-examination only for the above named reasons; that in the retaking of the depositions the Plaintiffs will have an opportunity to cross-examine Robert Blair.

D. D. Fields, attorney for Plaintiffs, here avers that no such an order on the book prepared by him or of which he has any knowledge or information requiring five days notice, or any other length of time, for the cross-examination, and no provision for same to be done within 40 days, and says that since the last term of the Court and since the filing of the amended petition that the Defendant, Robert Blair, has given notice for the taking of other depositions and has already summoned the parties whom he was permitted to cross-examine, they being party Plaintiffs and only desisted from that cross-examination by Plaintiff's counsel agreeing to put W. G. Caudill on the stand, which they have done, and given them a chance to cross-examine him, and Plaintiff's counsel now insists that the refusal of the Defendant, Robert Blair, to be further cross-examined as provided in the code and by order of Court, is simply for the purpose of delay and to prevent the trial of this action.

At this point the Defendant, Robert Blair, avers that he did give notice to the Plaintiffs as required by the order of the Letcher Circuit Court, of the time and place that they would cross-examine the Plaintiff, W. G. Caudill, Polly Ann Craft and Sabrina Caudill, and had summons issued for them to appear at the law office of Blair & Hawk to submit themselves to cross-examination, and on the day set the attorney for the Plaintiffs, D. D. Fields, said and so notified the attorney for the Defendant, that it was absolutely out of his power to attend to the taking of the deposition on that date; that the Plaintiff, W. G. Caudill, also notified the attorney for the Defendant that his attorney, D. D. Fields, could not be present and that he could not proceed to give their deposition without his attorney; that for the convenience of the Plaintiff the taking of the deposition was adjourned over until the next day and the same excuse was made to Robert Blair, one of the Defendants; then we attempted to agree with the attorney for the Plaintiff and the Plaintiff, W. G. Caudill, after some discussion, we failed to agree and when I left the room or the office of the attorney for the Plaintiff I so announced to them, if we could not agree, then we should take the matter as we come to it, meaning we would follow the legal steps.

There not being any other witness produced the further taking of these depositions is now adjourned..

State of Kentucky,
County of etcher:

I, B. W. Hale, a notary public, in and for the county and state aforesaid, certify that the foregoing depositions of W. G. Caudill and Joseph Hall were taken before me at the times and places stat-

ed in the caption and adjourning orders; that said witnesses were duly sworn before giving it; that it was written by me in their presence and read to and subscribed by them in my presence.

The Plaintiffs, W. G. Caudill and Joseph Hall, were present in person and by Counsel D. D. Fields, and the Defendants by Counsel Robert Blair, during the taking.

Given under my hand April 5, 1916.

B. W. HALE, Notary Public Letcher County.

LETCHER CIRCUIT COURT

W. G. Caudill, Etc. Plaintiffs
vs. [**DEPOSITIONS FOR DEFENDANTS.**]
Robert Blair, Etc. Defendants

The deposition of Peter Adkins, taken at the dwelling house of Dr. M. Adkins, on the 16th day of September, 1915, pursuant to notice herto attached, said deposition to be used as evidence on behalf of Defendants in the above styled case now pending in the Letcher Circuit Court, the witness being duly sworn by me before giving it, deposes as follows, and says in answer to questions as follows:

Q. State your age, residence and occupation.

A. My name is Peter Adkins, my age 81 years, and reside in Pike County, Kentucky.

Q. State whether or not you are acquainted with the house and lot in dispute in this action?

A. Yes, sir, and have been for 32 years.

Q. Are you acquainted with the Sandlick Church of Regular Primitive Baptists?

A. I am, and have been for 32 years. My membership is in that Church.

Q. How long have you been a member of that Church?

A. Thirty-two years.

Q. I will ask you to tell the Court if you was ever a member of any other Church before you joined the Sandlick Church.

A. Yes, sir, and have been up in 40 years.

Q. I will get you to tell the Court whether or not you have ever been authorized by the Church to exercise a gift as a minister?

A. Yes, sir, about 40 years I have been authorized to preach among the Primitive Baptists that long.

Q. I will get you to state whether or not it is the custom and usage of the Primitive Baptists to have a moderator for each individual Church who was of the same faith and order of the Church?

A. Yes, sir.

Q. Who was moderator of the Sandlick Church when you first became acquainted with it?

A. Elder Henry Day, and I am well acquainted with the doctrine he advocated during all the time he was moderator of the Sandlick Church. He advocated the doctrine of special atonement and the entire Church at that time was firm believers in the doctrine he advocated, and he was also moderator of the Sandlick Association of the Regular Primitive Baptist, and was such until he married and moved to the state of Missouri.

Q. Who was moderator of the Sandlick Church and the Sandlick Association next after Elder Henry Day?

A. Elder S. C. Caudill was moderator of both the Sandlick Church and the Sandlick Association for several years, and I was sufficiently acquainted with the doctrine that he preached during the time that he was moderator of the Sandlick Church and Sandlick Association, and he was a firm believer in and advocated the doctrine of election and special atonement. Some time prior to May, 1896, I was elected moderator of the Sandlick Association on the motion of Elder S. C. Caudill, who was the former moderator of said association, and I have always been a firm believer in the doctrine of election and special atonement. There was never any trouble in the Sandlick Church until the year of 1896, at which time, and for some time prior, I had been assistant moderator of Sandlick Church, which was customary among the Primitive Baptists, and was acting moderator of the Sandlick Church on the 16th day of May, 1896, at which time there was a division among the members of said Church, and I here refer to a copy of the records and make same a part of my deposition herein, and I also refer to the records of said Church of the April meeting, 1896, and make it a part of my deposition herein.

Q. I will get you to state to the Court whether or not Robert Blair, S. G. Fairchild, David Sergent and Joseph Fairchild, or either of them, absented themselves from the Sandlick Church on May 16, 1896?

A. They did not.

Q. State whether or not they or either of them, or yourself, left the church house on said day while the meeting was in regular session and went to another point or place and organized yourselves into a body and called it the Sandlick Church?

A. We did not. I was standing as moderator for the Church on that day when the trouble arose and the confusion grew so great among those that were identified with the Plaintiffs and the outside congregation and I, as moderator of said Church, announced to the body that on account of the confusion we could not go any further with the work of the Church. Then Elder Robert Blair announced that they would meet at his house at 4 o'clock in the evening, which was done, and that fell at the regular session of the Sandlick Association. Elder S. C. Caudill and some of the Plaintiffs that was associated with him, and the Defendants and the members of the Church associated with them, each presented a letter to the Sandlick Association claiming to be the Sandlick Church, and the Sandlick Association received the letters presented by the Defendants and those associated with them as the Sandlick in order, and rejected the letter presented by the Plaintiffs and those associated with them as not being in order and the Defendants and those associated with them, have been received by the said Sandlick Association and recognized by it, and all the associations with which it corresponded as being the Sandlick Church in order, and the Plaintiffs and those associated with them could not obtain fellowship with the Regular Primitive Baptist anywhere until the year of 1905, at which time the time was agreed upon by the Plaintiffs and those associated with them, and the Defendants

and those associated with them, to meet at the church house on the lot of land in dispute in this action and at said time by mutual agreement and consent of the Plaintiff, Sabrina Caudill and those identified with her, and at a time when the Church was in regular session, all their differences was reconciled and settled, the said Sabrina Caudill being present at the time and agreed to said settlement, the order of said Church and the proceedings thereof at the time of said settlement is here referred to and is made a part of this deposition. Two years thereafter the said Sabrina Caudill was excluded from the fellowship of said Church for non-attendance and at the time of the said reconciliation as above referred to the Plaintiff, Sabrina Caudill, and the members of said Church that was identified with her was restored to the full fellowship of said Church, and at the time of said reconciliation the Plaintiff, Sabrina Caudill and the members of the Church that had been identified with her, delivered to these Defendants and the members of the Church identified with them the full possession and control of the lot of land in dispute and the house thereon, and the keys to said house, and the Defendants have been in possession thereof ever since.

And further this deponent saith not.

PETER ADKINS.

LETCHER CIRCUIT COURT

W. G. Caudill, Etc. Plaintiffs
vs. [**CERTIFICATE.**
Robert Blair, Etc. Defendants

I, the undersigned, J. E. Ratliff, Clerk of the Pike County Court, do certify that the deposition of Peter Adkins was taken at the dwelling house of Moses Adkins in Pike County, Kentucky, on the 16th and 17th days of September, 1915, pursuant to notice hereto attached; that the witness was duly sworn by me before giving it; that same was written by me and read to the witness, and he signed his name in my presence, and Robert Blair, one of the Defendants, was present, and no one representing the Plaintiff was present at the taking.

J. E. RATLIFF, Clerk.

By LUTHER DANNON, Deputy Clerk.

LETCHER CIRCUIT COURT

W. G. Caudill, Etc. Plaintiffs
vs. [**DEPOSITIONS FOR DEFENDANTS.**
Robert Blair, Etc. Defendants

The deposition of Robert Blair taken at the law office of Blair & Hawk, December 20, 1915, pursuant to notice hereto attached, to be read as evidence in Defendant's behalf in the above styled cause now pending in the Letcher Circuit Court. By agreement of the parties the depositions are to be taken in shorthand and afterwards transcribed, and to have the same effect as if taken and written on the typewriter. The signature of the witnesses being waived by agreement.

The witness being duly sworn, states as follows:

I am 58 years old, reside in Letcher County, Kentucky; by profession an attorney-at-law and minister of the Primitive Baptist Church. I am one of the Defendants in the above styled action and a member of the Sandlick Church. I became a member of said Church on the 7th day of November, 1889, baptized by Elder B. E. Caudill, who is a brother of the Plaintiff, W. G. Caudill, and Elder S. C. Caudill. Elder B. E. Caudill and S. C. Caudill are now both dead.

The Sandlick Church on the 3d Saturday in July, 1891, by an order of said Church, authorized me to exercise public gifts in the bonds of said Church. On June, 3d Saturday, 1894, the Sandlick Church, the Regular Primitive Baptist Church, having called together ordained authority from different churches and at that time was in fellowship with the Sandlick Church, for the purpose of composing a presbytery for ordination of myself. The presbytery was composed of John A. Craft, Elder Thomas Kelly, Elder J. M. Hall, Elder S. C. Caudill, J. W. Fairchild, Spencer Adams and Peter Adkins. The record of the Sandlick Church which we have, shows the Sandlick Church to be one hundred years of age the 13th day of August, 1915.

(The Plaintiffs move the Court to strike out from this deposition all that part of same which tends to state what the records show, as the record itself is the best evidence.—D. D. Fields, Attorney for Plaintiffs.)

A copy of the record of the organization of said Church is here referred to and made part of this deposition, which I will file with the Notary and mark same "R. B. No. 1."

Having been a member of the Primitive Baptist Church for 36 years, I am well acquainted with their customs and usage; that each individual Church, according to their customs and usage, have what is termed a moderator and clerk, and also an assistant moderator, it being the duty of the moderator to stand for the Church at its regular meeting times each month when present, and to preserve order and to put all business and motions before the house for a vote. When he is not present it is the duty of the assistant moderator to act in the place of the moderator of said Church, and the custom and usage also is to have what is known and termed as an association, which composes a number of churches that is of the same faith and order. That according to that custom and usage, on Friday before the first Saturday in November, 1876, the following named churches, to-wit: Sandlick Church, Indian Bottom Church, Big Cowan Church, Colly Creek, Big Leatherwood, Oven Fork, Carrs Fork, Mallett Fork, Laurel Fork and Clear Creek Churches met with the Indian Bottom Church in Letcher County, Kentucky, and organized themselves into an association and adopted and subscribed to the Articles of Faith, Constitutions and Rules of Decorum, copies of which are filed with the pleadings in this cause or will be filed with the Notary, marked "R. B. No. 2."

That at the organization of said association Elder Henry Day was chosen moderator of the association, J. H. Craft clerk of the said association. That in the year 1883 the said association was then in correspondence, as the custom of the Primitive Baptist

was, with the Three Forks of Powells River Association of Primitive Baptists, the Union Association, Mates Creek Association and New Salem Association, and at their session in the year 1883, Elder B. E. Caudill, brother of the Plaintiff, W. G. Caudill, being at one time a member of the Red Bird Association, in company with Elder T. G. Gilbert, presented a letter of correspondence to the Sandlick Association, and upon examination of the Articles of Faith of the Sandlick Association they refused to be seated with the Sandlick Association, or in other words, to raise correspondence with said Association unless the association would adopt the Articles of Faith that the Union Association was constituted on. The association taking said Articles of Faith under consideration made the following order, which is in words and figures as follows:

"5. The item relative to the Red Bird Association was taken up and the association agreed to adopt the Articles of Faith that Union Association was constituted on."

A copy of said item is here referred to and made part of this deposition and marked "R. B. No. 3."

(Plaintiff, by counsel, at this point moves to strike from this deposition all that part of same that refers to any proceeding had by any association, and especially with reference to any proceeding or dealing with the Red Bird Association, and also that portion purporting to be copied from the record, and also that portion of the record referred to, because that portion referred to is not complete within itself and not intelligible except in the connection with the whole record, because all of said evidence is incompetent and irrelevant to the question and issues in the case, and upon this motion prays the judgment of the Court.)

The Articles of Faith as adopted and referred to as exhibit in the answer of the Defendants, are here referred to and made part of this deposition.

(The Plaintiffs here make the same motion with reference to the record and asks that it be stricken for the same reasons above given.)

Then, according to the custom and usage of the Primitive Baptists and the Sandlick Association, on the 6th day of October, 1886, the Sandlick Association withdrew fellowship from the Big Cowan Church, because she refused to be governed by the third item of the Articles of Faith of the association, after having been dealt with according to the constitution and rules of decorum of said association, which constitution and rules of decorum are made a part of this deposition and filed in this case and marked "R. B. No. 2."

(At this point the Plaintiffs by counsel object and except to the foregoing statement with reference to any acts of the association withdrawing from the Big Cowan Church, for the same reason hereinbefore stated; and also object and excepts to the statement that the Big Cowan Church had been dealt with according to the constitution and rules of decorum, because said statement is a conclusion of the witness and not a statement of facts, and upon this objection and exception the Plaintiffs pray the judgment of the Court.)

At that time the Sandlick Association was composed of the Big

Leatherwood, Oven Fork, Carrs Fork, Mallett Fork, Laurel Fork, Clear Creek, Balls Fork Church. The messengers that were seated to the association at that session from the Sandlick Church were Elder S. C. Caudill, S. J. Caudill, Robert Blair, and at that time Elder Henry Day was moderator of the association. That afterwards the Indian Bottom Church failed to represent themselves in the association and according to the custom and usage and the constitution of said association, the association appointed a committee consisting of Elder S. C. Caudill, myself, and I am not sure, but I believe, L. F. Adkins, to wait upon said Church and to inquire the reason they failed to represent themselves in said association. Myself, in company with Elder S. C. Caudill, went to visit the Church according to our appointment and made inquiry of the Church while in session, for her reason for not representing herself in the association.

Elder James Dixon, the moderator of the Church at that time, speaking for and on behalf of the Church, first said that it was on account of a change in the constitution of the association. After being informed by Elder Caudill that it was not the act of the association, but of the printer who printed the minutes of the association, that S. J. Caudill, who was appointed by the association to superintend the printing of the minutes, had the same men to print the minutes of the Sandlick Association that printed the minutes of the Washington Association, and that the printer had placed the constitution of the Washington Association in the minutes of the Sandlick Association, and the constitution of the Sandlick Association in the Washington minutes. Then Elder Dixon announced that it was on the account of confusion and failed and refused to say whether the confusion was in their own body or where.

At the next term of the association at which we were to report, owing to the condition of the health of the family of Elder S. C. Caudill, he prepared a written report for himself and sent it to the association by me. Upon that report, together with mine, the Sandlick Association dropped the Indian Bottom Church from her fellowship.

(At this point the Plaintiffs by counsel object and except to that portion of the foregoing narrative of the witness with reference to the action of the Sandlick Association concerning the Indian Bottom Church or their dealings therewith, or their communication therewith, or any action taken thereupon. First, because same is incompetent and irrelevant; second, because the action of any of the bodies spoken of would have to be by record, and the record would be the best evidence, and not verbal statements as to what the records contained, or what reports were made to be incompetent as evidence, and upon this exception and objection the Plaintiffs pray the judgment of the Court.)

The written report made by Caudill was delivered to the Clerk of the association and has been lost, and never was spread at large upon the record.

After this, according to the usage and customs of the Baptists, especially the Sandlick Association, the steps required by the constitution of said association was taken with the Carrs Fork Church

who had failed to represent themselves in the association and they were dropped from the fellowship of the association. Also, same steps were taken with Balls Fork Church, Clear Creek and Mallet Fork. During the time of these transactions Elder Henry Day and S. C. Caudill were moderators of Sandlick Association, that is, Brother S. C. Caudill was elected moderator of the association after Elder Day moved out of the bounds of the association and went to the State of Missouri.

(Plaintiffs by counsel at this point except and object to all that portion of the narrative of the witness relative to the Balls Fork, Clear Creek and Mallet Fork Churches for the same reason stated above.)

At the time I became a member of the Sandlick Church, Elder Henry Day was moderator of the Sandlick Church and J. H. Craft was the clerk of said Church. The Sandlick Church seemed to be in a very prosperous condition up to the latter part of the year 1895—the first time I ever knew there was any trouble among any of the brethren. Myself, in company with Elder S. C. Caudill, visited the Millstone Church, and after services had been opened and Joe Hall had preached, then I occupied the stand and after I closed my remarks Elder Caudill, being moderator of the Church at that time, arose and remarked in the presence of the body and the congregation, that he had dreamed a dream the night before, that he had dreamed of seeing four large snakes, two large pided rattle snakes and two large blacksnakes; and I want you brethren to know “that Brother Robert Blair is one of those large rattle snakes.”

After I had returned home I waited until Saturday morning, when I went to see him, as the custom and usage of the Baptists were if one brother trespasses against another he must go and tell him his faults. When I went to his home and inquired for him I was informed that he had gone to Colly Creek Church, where he was moderator at that time of said Church. I followed on after him until I got to the head of Sandlick, and at the forks of the road I found that his horse's had not gone in the directions of Colly Creek Church. I gave up the pursuit and turned and went to Colly Church.

After this a few days Elder D. H. Riner and James McDonald, elders of the Primitive Baptist Church; Elder D. H. Riner of the Three Forks Association, McDonald of Powells Valley Association, which association at that time was in correspondence with the Three Forks Association, made a list of appointments in this county to preach, and in the appointments there was one at the Sandlick Church and one at the Colly Creek Church. At the time they filled their appointments, and on the day that we met with them at the Colly Creek Church, Elder S. C. Caudill and L. F. Adkins withdrew from the house and was gone for some time, and afterwards Adkins came to the door and motioned for me, and I went out and walked to the corner of the house with him and he pointed to where Brother Caudill was standing and remarked that “Brother Caudill wanted to see me.” I went to where he was; he refused to speak until he called Adkins present to hear the conversation, when he remarked that it was best for me and him to not exercise

our gifts any further until the Church had settled the matter between he and I. I told him that I had not attempted to exercise my gifts since he had treated me as he had at the Millstone Church. He then remarked to me that that was all he wanted to say.

We went into the house and so announced to the brethren of Colly Church, and the brotherhood generally, our agreement, or in other words, that we would neither one exercise gifts until the matter was settled. The next day I came to Whitesburg from my home where I lived at that time, which was about in one-half or three-fourths mile of his home. After I had been in town some time Elder Caudill came to town and about 1 o'clock in the day I met with him on the streets, spoke to him and shook hands with him and asked him how long he would be in town, and he said he didn't know, and asked me why I told him that I thought the he and I ought to talk our matter over to see whether or not we could settle, and he said that was what he had come to town for to see me. We then went into my office and I then demanded of him to know what he had against me, and he said it was what I had told the two old brothers, that is, Riner and McDonald. I asked him to tell me what I should have told them. He said that I had told them that he had gone off to what was called then among us the "Free Will Baptists." I remarked to him that I did not know that I said it exactly in that language, but I did tell him what I did say to the brethren; that I had said to them that I believed he was getting wrong, and my reason for it was because you had said what you did at the Millstone Church, and I had waited until Saturday to see you about it, and then I went to your house to see you and you had gone to the Indian Bottom Church and had fellowshipped with them and preached with them, and after you said that you would not fellowship with them or anyone that did until they were reconciled to the Sandlick Association; that you heard me say privately and publicly that I would not fellowship them nor them that did until reconciliation was made between them and Sandlick Association.

When I closed telling him, he looked up at me and reached me his hand and said, "I am willing for me and you to be like we always have been, if you are." I told him most assuredly I was willing to forgive him and be as we always were. Believing all was settled, we departed.

(At this point the Plaintiffs by counsel objects and excepts to all that part of the witnesses' narrative relative to any conversation between himself and S. C. Caudill, or any other person not a party to this action, and except to any conversation of the witness to S. C. Caudill or S. C. Caudill to him, because of the fact that S. C. Caudill is now dead and the witness is incompetent to testify for himself with reference to any conversation had or any act done or omitted to be done by a deceased person.)

All went on then until April 3, Saturday, 1896, at which time the Sandlick Church met and was found by their action in love and fellowship with one another; and at said time, by order of the Church, according to the advice of Elder S. C. Caudill, who was

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moderator of the Sandlick Church, send a letter of request to the Millstone Church, there being some trouble between the members of the Millstone Church and the Sandlick Church. After the letter was prepared by the clerk, on Sunday morning, Elder S. C. Caudill took myself and Elder Joe Fairchild out for a conversation. In the conversation he remarked: "If you brethren send this letter to Millstone Church, I will never stand as moderator of the Sandlick Church while I live." Then Elder Fairchild remarked to him, "Brother Caudill, my membership is not in this Church, my membership is in Dry Fork Church in Rowen County, and whatever this Church does I am satisfied with." Then I remarked to them, "That I was a prisoner, my mouth was closed, and whatever the Church did I was submissive." Then he remarked, "Them brethren up there had done what he had advised them to do, and he could not afford to go back on the settlement he had made with me," (meaning Robert Blair.)

A copy of the order of the Churchsending request to the Millstone Church by the Sandlick Church is referred to as an exhibit in the answer of the Defendants, is hereby referred to and made a part of this deposition and marked "R. B. No. 4."

(Plaintiffs by counsel object and except to all that part of the witness' narative taat refers to and speaks of any conversation with himself and Elder Fairchild and S. C. Caudill, because all that was said by Fairchild is hearsay and incompetent, and all that was said by Caudill can not be testified to by the witness himself by reason of the said Caudill being dead, and upon this exception and objection Plaintiffs pray the judgment of the Court.)

On the third Saturday in May, 1896, the Sandlick Church met again at the chure hhouse on the land in dispute herein, and by their acts they said that they were in love and fellowship one with another. Then on motion of Elder S. C. Caudill, Elder Peter Adkins, the assistant moderator of the Church, was elected moderator of the day instead of Caudill, then proceeded with the business of the day and called, as the custom of the Church was, for members of other churches of the same faith and order, to aseat with us. Some of the members of the Millstone Church being present, when some confusion arose, and Elder Fairchild remarked "that he did not know whether that Church considered him of the same faith and order of it or not; that he joined that Church and was baptized in the fellowship of that Church; that it had ordained him to the fullfunctions of the gospel and that the Church had heretofore given him a letter of dismission from said Church when joined to another Church of the same faith and order; that he had laid that letter in the Dry Fork Church of Rowen County, Kentucky, which so far as he knew had about the same Articles of Faith and constitution as the Sandlick Church. That Brother Caudill had told him that he could not fellowship the doctrine that he preached. Then I, as a member of the Church, realized that there was trouble existing between Brother Caudill and Brother Fairchild, asked the Church to take action to require them to settle the trouble that existed between them. When I did this Elder Caudill arose to his

feet and remarked to the Church that he did not have aught of any kind against Brother Fairchild. Then I entered a motion in the Church to take the voice of the Church as to whether it consider Fairchild of the same Faith and Order, preparatory to the legal steps according to our customs and usages, which was, if a member who had been given a letter of dismissal should join another church of a different Faith and Order to that of the Sandlick Church, was to take the Gospel steps to reclaim said brother or sisters.

Elder Caudill and those who identified themselves with him at that time, including the Plaintiffs, Polly Ann Craft, and those identified with Brother Caudill, voted that they considered Elder Fairchild not of the same faith and order of the Sandlick Church, at which time considerable confusion arose in the house, and those voting to consider Brother Fairchild of the same faith and order, and that the gospel steps should be taken with Peter Adkins, S. G. Fairchild and Robert Blair.

Then the moderator announced to the body that owing to the confusion of the body and the congregation that it was not in condition to go further with the work of the Church and took his seat; at which time I informed those brethren and sisters that they had gone into disorder and announced that the Church would meet at my house on Sandlick Creek that evening at 4 o'clock to finish the work of the Church, after which L. F. Adkins made a motion before those who were identified with Elder Caudill that he, Elder Caudill, take charge; at which time he, Elder Caudill, announced that the trouble between the Millstone Church and the Sandlick Church was now settled, and he went ahead and attempted to finish the work of the Church.

Then in September, in the year 1896, he, together with those who were associated with him, prepared and took a letter to the Sandlick Association, claiming to be the Sandlick Church, together with those that were associated with him.

Elder Peter Adkins and those associated with him, including myself, met at my house and completed the work of the Church for the day. Some of the members that stood with Caudill during the day met with us and made their acknowledgements to their errors, and were seated with us, and kept up the regular meetings at the regular monthly intervals until September, 1896, when we prepared a letter and sent the messengers to Sandlick Association, and the Association in session received the letter that we presented and recognized the Defendants and those associated with them as the Sandlick Church in order, and rejected the letter presented by Caudill and those identified with him. That the Defendants, that is, Robert Blair, Peter Adkins and S. G. Fairchild, and others that were received in the body, have been received and recognized by the Sandlick Association as the Sandlick Church in order ever since.

(The Plaintiffs by counsel object and except to all that part of the narrative of the witness with reference to what has been done or failed to have been done by any Church or association, because the records of the Church and the association is the best evidence. We therefore ask the Court to strike

from this deposition all that part of the same, and upon this motion prays judgment of the Court.)

Then prior to May, 1905, it was made known to me by Elder S. C. Caudill and other members of the Church that was identified with him that they desired reconciliation to be made between us, and on the third Saturday in May, 1905, the Church met at the Sandlick church house on the land in dispute, and while in regular session they agreed to set a regular time for all to meet at the church house on the land in dispute, to see if reconciliation could be made, and appointed brothers and sisters of the Church to visit all the members of the Church that was not present, and inform them of the time and place for the meeting, which was on the third Saturday in June, 1905, regular meeting date.

The following members of the Church, that were members of the Church prior to the year 1896, to-wit: Elder Peter Adkins, Robert Blair, S. J. Caudill, Sisters Sarah Frazier, Sarah Fairchild, Sabrina Caudill, Rachel Blair, Abertine Sexton and Martha Adams all being present. S. J. Caudill, Sarah Frazier, Sabrina Caudill, Abertine Sexton and Martha Adams being members of the Church that identified themselves with Elder Caudill in 1896. Peter Adkins, Robert Blair, Rachel Blair and Sarah Fairchild being members who identified themselves with Peter Adkins and the other Defendants that were members of the Sandlick Church at that time. They agreed unanimously that Elder Joe Hall, who was then a member of the Millstone Church, to state the object of the meeting to the house, which he did, and after consultation with each other all the members present mutually agreed to and did settle all their troubles, and the proposition was agreed upon by all the members present that felt that they could come together and freely forgive each other of all that had been done and said against each other and was willing to come together and be governed by the Articles of Faith that the Church was governed under in April, 1896, and to come to one another's feet, to manifest same by taking seat on a certain bench pointed out for that purpose. Then all the brethren and sisters above mentioned took their seats together and manifested their willingness to come to one another's feet.

At that time Elder S. C. Caudill being down sick and not able to attend the meeting, Elder Joseph Hall and S. J. Caudill, who is a brother of the Plaintiff, W. G. Caudill, and Elder S. C. Caudill had required them to make known his request to the body, which was done by them, "stating that his willingness to be governed by the Articles of Faith and rules of the church; that his request was that he be restored and that the record show the same, to the same position that he occupied prior to the division," which was done. The body unanimously agreed that he be restored to the moderatorship of the Church, which was done, and he remained such until his death.

After the reconciliation was made all the members of the Church seemed to be perfectly satisfied with it, that is, the settlement, and some of them, including the Plaintiff, Sabrina Caudill, visited the Church and filled her seat until some time in the latter part of 1906.

In the year 1907, two years after the reconciliation, the Church excluded the Plaintiff, Sabrina Caudill, for non-attendance. Sarah Frazier attached herself to another Church that was considered of a different faith and order of the Sandlick Church, for which she was excluded from the Sandlick Church. Martha Adams was also excluded from the membership of the Church and joined another Church that was not in fellowship with the Sandlick Church. S. J. Caudill is dead, Abertine Sexton is dead, S. C. Caudill is dead, L. F. Adkins left the country and went to the State of Washington, leaving his wife and two infant children. Since Sarah Frazier was excluded from the fellowship of this Church she has departed this life. Polly Ann Craft has remained a member of the Church, and has so claimed to me that she desired her membership with us until about 1910. I never heard any of the members that was identified with Elder Caudill that was in the reconciliation, or otherwise, claim anything else except those who were identified with the Defendants was the Church until about the year 1910. Since said time the Church had excluded the Plaintiff, Polly Ann Craft. The Defendants, Peter Adkins, Robert Blair and S. G. Fairchild, are now and have been at all times willing, in other words, are being governed as the Church under the Articles of Faith and constitution of the Church that was adopted by the Sandlick Association in the year 1883, and adopted by the Sandlick Church in the year 1885. That they are still adhering to the doctrine enounced in said Articles of Faith, as they understand it.

I was well acquainted with Elder Henry Day, who was moderator of the Sandlick Association, and also the Sandlick Church when the Articles of Faith above referred to were adopted as Articles of Faith of the Sandlick Church and Sandlick Association. I was sufficiently acquainted with the doctrine that Elder Day, as moderator, preached, and he always in the presence of the Church and his discourses preached the doctrine of election by grace and special atonement, and continued to preach it as long as he was moderator of the Sandlick Church.

I was sufficiently acquainted with the doctrine Elder S. C. Caudill preached prior to the year 1896. He advocated the doctrine of election and special atonement. I am also sufficiently acquainted with the doctrine advocated by Elder Peter Adkins that he preached prior to the year 1896. He advocated the doctrine of election and special atonement, which the entire Church prior to this time seemed to be firm believers of.

The Articles of Faith that the Sandlick Church was governed by, June, 1896, was adopted by the Church in the year 1885. After the adoption of said Articles of Faith on March 3, Saturday, 1887, the Plaintiff, Sabrina Caudill, became a member of said Church and was baptized by Elder B. E. Caudill, making it nearly two years after the adoption of said Articles of Faith by the Church before she attached herself to the Church; that at the time she became a member of the Church the Church was governed by the same Articles of Faith that the Sandlick Association adopted in the year 1883, and the Sandlick Church adopted in the year 1885.

I had been a member of the Church something near nine years before she became a member.

About the time we met for the purpose to see if reconciliation could be made, the Plaintiffs and those who were at that time associated with them, delivered the keys of the house, and the possession of the Church as agreed upon.

The Defendants, Robert Blair, Peter Adkins, S. G. Fairchild and those associated with them, have been recognized as the Sandlick Church of the Regular Primitive Baptists by the Sandlick Association and other associations with whom they correspond, as being the Sandlick Church in order, and have held the possession of the property in dispute ever since as Church property.

I have no private individual interest in the house and lot other than as a member of said Church, subject to the rules and regulations thereof. That on the third Saturday in June, 1896, myself and the Defendants, S. G. Fairchild, Peter Adkins, nor no one associated with them never absented themselves from the Church or left the church house and went to another place while the Church was in session and organized ourselves into a body and attempted to call it the Sandlick Church. We each remained at the church house until the Plaintiffs and those who were associated with them all left the house together, and have claimed to be the Sandlick Church of Regular Primitive Baptists in order from that day up until this, together with such members as have been received by the body since that day, and the members who were recognized with us in the year 1885.

My information is that at that time, as I was informed, was that S. J. Caudill, Peter Adkins and Isaac Sexton were trustees of the Church at the time of the trouble. That myself, Peter Adkins and S. G. Fairchild are trustees of the Church at the present.

The members of the Sandlick Church that were members of the said Church at the June meeting, 1896, are dead or have been dismissed by letter, or excluded from the fellowship of said Church, except Susan Ingram, Mary Annette Green, Rachel Blair, Robert Blair, Elizabeth Lewis, Isaac Sexton, Margaret Sexton, Peter Adkins, Stephen Fairchild, Louisa Adkins, Savina Collins, Lucinda Banks, Parthena Collins and Mary Adams.

That during the last six years the trustees of said Church, to-wit: Elder Peter Adkins, Robert Blair, S. G. Fairchild, trustees of the Church, have conveyed a portion of the lot to the L. & N. Railway Company. The attorney for the Plaintiffs, D. D. Fields, who was at that time representing the L. & N. Company, prepared the deed which we signed and which the railroad company accepted. Said deed is here referred to and made part of this deposition and marked "R. B. No. 5."

CROSS EXAMINATION

By D. D. Fields

Q. I wish you would explain to the Court what you mean and what is meant by the doctrine of election, as you understand it by the Articles of Faith, which you say the Sandlick Church is governed by?

A. It means that sinners of Adams' race is elected to salvation by the electing grace of God.

Q. When is that election made, according to the doctrine

preached and advocated by yourself and Peter Adkins and those associated with you in the Church, as is now organized?

A. It was made in Christ, as the Apostle Paul says, "According as He hath chosen us in Him before the foundation of the world that we should be wholly and without blame, before Him in love."

Q. Is it preached and advocated by you and those associated in the Church, as you have it organized, that all the Adamic posterity was elected?

A. It is owing to which Adam you speak of.

Q. I speak of the first man, Adam, the husband of Eve.

A. No, sir, we do not believe they were all in Christ; therefore they could not be chosen.

Q. Is it not a fact that it is preached and advocated by you and those associated in your Church as you have it organized, that a portion of the Adamic family never has any chance to become a child of grace, or to be born again or saved in eternity?

A. We do not believe that people are saved by chance, but by the grace of God.

Q. Do you believe that all rational people that is born into the world with an equal chance to be saved in eternity?

A. As I have stated before, we do not believe that people are saved by chance, but we do believe that all the human family came into the world equally, except Jesus Christ.

Q. Then you believe, and preach and advocate in your Church, and those that are associated with you, that each individual that is born into the world has an equal chance with all other individuals to be saved?

A. We do not believe by chance or by showing, but by the grace of God alone, the imputed righteousness of Jesus Christ being imputed to sinners.

Q. Is it not a fact that you and those associated with you preach and advocate the doctrine that the imputed righteousness of Jesus Christ is never extended to or applied to any person except such as was elected before the foundation of the world?

A. As I have aforesaid, we believe and preach that the election was in Christ, and not in Adam.

Q. I am not talking about the election of man. I will ask the stenographer to read you the question and ask you to answer the question. I will ask the stenographer to require the witness to answer the question as asked.

A. Election means choice, as I understand it, and that the imputed righteousness of Jesus Christ has been and will be imputed to all that are in Him, and none other.

Q. Then if I understand you, you mean that every person who has received or will hereafter receive the grace of God was in Christ before the foundation of the world. Is that right?

A. If you mean by the "world," Christ, the spirit of God, we do; but if you mean the person of the Lord Jesus Christ, we don't.

Q. Which do you mean in your answer when you read from the Bible?

A. I mean in spirit and not in person.

Q. Then if I understand you, your doctrine that is advocated by

you and your associates that all who were chosen in Christ before the foundation of the world, would be saved and none other?

A. In time. Now what I mean by this, is that the choice was made in Christ and those that were chosen to salvation God ordained and predestinated them unto the adoption of children by Jesus Christ according to the good pleasure of his will to the praise of his glorious grace, and those that are chosen in spirit are those who were spoken of in the scriptures where it says that they would deceive the very elect if possible. The very elect are those among God's children who have been added to the Church that Jesus Christ set up in this world. Those who were not elected in Christ are his children who have or may have an experimental knowledge of the grace of God that have not been added to the Church, and are living after the flesh, according, as the Apostle Paul said in the eighth chapter of Romans, first verse, which reads as follows: "There is therefore now no condemnation to them who are in Christ Jesus, who walk not after the flesh, but after the spirit." And those of God's children who live after the flesh and not after the spirit are those of God's children who do not believe the gospel. The ones that were chosen in Christ are those of his children who worship God in the spirit and have no confidence in the flesh, and those are the ones that are predestinated unto salvation and are saved in time, and are the ones, as we understand it, that Paul had under consideration when he said that "It is needful for me to write unto you concerning your common salvation." That is those that are saved in time—we mean, are saved from false doctrine and false teachers and rejoice in tribulation, persecution, trials and afflictions, but at the last day when time shall be no more, all those who have had an experimental knowledge of God, that have been lead captive by the flesh or the devil will ultimately be changed and fashioned like unto the most glorious body of the Lord Jesus Christ, and will be taken up to ever be with the Lord, including all those that are in him.

Q. Now you have spoken of the very elect as one class and one of the children of God that were not of the very elect in the other class. Now is it not preached and advocated by you and your associates that there is still another class of people?

A. We do.

Q. Is it not preached and advocated by you and your associates that the gospel when preached is not preached for their benefit, and can not reach them?

A. We do not believe all those who have not the spirit of God can not receive the things of God spiritually until His spirit is in them, and by that spirit in them they can not understand the things of God until they are revealed to them. We do not believe that the carnal mind or the natural mind of the human family can comprehend the things of the spirit.

Q. Don't you believe, you and your associates, and in substance, if not in words, preach and advocate that there is a class of people who will never receive that spirit of God so that they could be enlightened by the spirit of God, so if they could by the gospel be enlightened, so that they could be lead to repentance and receive the grace of God?

A. What do you mean by the "gospel?"

Q. I mean the power of God that John saw the angel flying in heaven with the gospel to be preached to the nations of the earth?

A. We believe that there is nothing but what that power could do, except to lie.

Q. Don't you believe, and don't you and your associates advocate the doctrine that there is a class of people that was not included in the election, about which you have spoken, and which can not be reached by the preaching of the gospel?

A. We believe that the Gospel is the power of God unto salvation to every one that believeth. We believe that that power of God does not enlighten the mind of any one, but as to the scriptures says of Jesus, "Which is the power of God and the wisdom of God, that He is the true light that lighteth every man that cometh into the world." We understand the word "lighteth" to mean "to set on fire," as Jesus himself says, that "He is a commanding fire," and this world, as we understand it, "is the Kingdom of Heaven" in Church.

Q. Then as you understand the world, it does not mean the globe as we understand it, the earth?

A. It is owing to where the word "world" is used what it means in the sentence. We understand in the sentence quoted in my answer that it means the "Kingdom of Heaven," from the fact that the scriptures speaks of more worlds than one, and for proof of it I refer to the scriptures, which says, "By whom he made the worlds," implying that there is more worlds than one; and in the prayer of the Lord Jesus Christ he says, "I pray not for the world." The world, as spoken of by me in my answer a few minutes ago, is pointed out by the sentence as a particular world, as we understand it and so preach it.

Q. Then if I understand you, the sentence quoted by you does not mean that Christ came into the world to enlighten every man that was born into this natural world, or globe. Is that right?

A. Owing to what sense you mean it in.

Q. I mean in the sense in which it is used in the quotation given by you.

A. We do not. From the fact we believe there were millions of people born into this world before Jesus came into it that have passed away and gone, and there are infants yet being born into the world and dying.

Q. Don't you and your associates preach and advocate that there is a class of people now in the world that are adults and of sound mind that will never be enlightened and can not be enlightened by the gospel?

A. We do not.

Q. Do you preach and advocate that Christ, when he came into the world, meant that he was the light that lighteth every man that was born into the world after He came?

A. Jesus never said that he was the light of the world and lighteth every man, but John, the forerunner, if I am not mistaken, said that was "Not the light," but he came to bear witness of the light that lighteth every man that cometh into the world.

Q. What was the light that he was to bear witness of?

A. It was the power of the Lord Jesus Christ, and we understand that this man spoken of here is the man of God, who as Paul declared in the scriptures when he said, "When I was a child I acted as a child, and when I became a man I put away childish things." We understand this to mean one who has received a hope in Christ, and is counted a babe in Christ until he grows up to the statue of manhood, having his senses exercised to discern both good and evil and is applicable to the man of God and not the child of God.

Q. Then the scripture that you quoted has not reference to the people generally in the world that was to be enlightened by Christ, but only to those that had received the hope in Christ?

A. I never said that Christ was to enlighten any one, but "lighteth every man that cometh into the world," and we understand this world to be the gospel world.

Q. Then is it not a fact that you and your associates preach and advocate in substance, if not in words, that there is a class of people that is born into the world whose mind never is exercised so as to be able to discern good and evil, excluding infants or idiots, of which I am speaking?

(The Defendant at this point objects and excepts to the foregoing question and any answer thereto, because the witness has hertofore answered said question in substance, if not in words.)

A. Yes, sir, I do, and so far as I am able to say those who are associated with me in the Sandlick Church preach the same. That is, we mean to say that we preach that Christ is the true light that lighteth the man of God, and we mean by the man of God those who have received the grace of God, and we mean, or I do, to say that all people of Adam's race are born into this natural world with a natural mind, except idiots; they are excluded in this question; and none of them have a spiritual mind, or the mind of Christ with which to discern good and evil until God in his mercy, according to his grace, give to them the light of his spirit with which they can discern both good and evil, and when that light of the spirit of God is given them it manifests the corruption or evil that is in them, and also enables them by said spirit to discern the goodness of the mercy and long suffering of the Son of God that leads them to repentance, to see and to feel and to realize what Jesus suffered for them on the cross and to realize that he, by the sacrifice of himself, put away their sins, and when this is done the sinner of Adam's race for whom it was done, sees and realizes that Jesus had put away his sins, and then rejoices because of what the father had done for him through his son Jesus Christ.

Q. Is it not a fact that you and your associates believe and preach that persons whose mind is exercised, as you have described, to the point that they can discern the good and evil and the corruption in them, and the goodness in God is finally saved in the kingdom of God?

A. Yes, sir, we believe that that is a good work he will perform it until the day of the Lord Jesus thereof.

Q. Is it not a fact that you and your associates preach and advocate the doctrine, either in words or substance, that when the

mind is enlightened to the point where the creature is enabled to see and discern the good and evil, as before spoken of, that he then sees that his sins had already been put away before the foundation of the world?

A. No, sir, we do not advocate that.

Q. At what period of time do you preach and advocate that their sins are put away?

A. We believe that Jesus Christ reconciled them to God by his suffering on the cross that it was made manifest to them in time, as before stated, by being lead to repentance, than by the preaching of the gospel that mind, which is as we term it, and believe it a new mind given us, which is the mind of Christ, is capable of understanding the gospel, which is the power of God, and those who believe the gospel from that day grows in grace and in the knowledge of the Lord Jesus Christ as calves of the stall until they come to manhood in Christ.

Q. Then if I understand you, you and your associates preach and advocate the doctrine that the sins of sinners are not pardoned after repentance, but the fact is only manifested to them that they are pardoned or reconciled in the death of Christ, is that right?

A. I don't know what you mean by associates, nor what you mean.

Q. I mean the ministers and preachers that is in fellowship with you and your Church, as you call it.

A. I can not tell you what the preachers preach with whom we are in fellowship from the fact, according to our customs we are in fellowship by direct and indirect correspondence and fellowship with people nearly all over the world, therefore, I have not met them all, but so far as I am able to judge and understand the elders of the Sandlick Church and the Sandlick Association preaches the doctrine that God's people were reconciled to God by the death of His Son and is saved by his life, and that Jesus Christ has power on earth to forgive people of Adam's race of their sins. We believe the forgiveness is to the sinner by the atonement and satisfaction of the law for him was made in Christ on the tree of the cross; that in the everlasting covenant before the world began their sins was reckoned in Jesus, and He stood as a lamb slain from the foundation of the world; that with God everything was present with him as much in eternity as it will ever be, He being the all-wise, omnipotent, omniscient and omnipresent God, the creator, upholder and disposer of all worlds, systems and beings, that he was before all things and by him all things consist. That agreement or covenant is with him was Christ the wisdom of God, and the power of God, and that he sent His Son into the world to put away the sins of his people, or to seek and to save that which was lost, and that since His crucifixion and the putting away the sins of His people, satisfying the law for them, He reveals what He has done for them in them by His spirit, and then the sinner receives manifestly a free pardon and remission of his sins and after that sinners does transgress the law of Christ's kingdom and is forgiven of those sins by Him.

Q. Is it not advocated by you and your associates that all the people of the Adamic race who were included in the covenant of

the children of God before they are exercised by the spirit you spoke of to the point where they are able to discern good and evil?

A. No, sir, we believe and teach that God's children are made up of two component parts, one from the earth and the other from God. That the earthly man is only a vessel of mercy, and as we understand it, and preach, and advocate, that these two component parts must come together, and the divine part partakes of nature and nature partakes of the divine, making all twain, one new man in Christ.

Q. At what period of time does that union take place, according to your doctrine, I mean before or after the repentance you spoke of?

A. We believe, or I do, that that takes place with the individual when the sinner is made to see and realizes and understand that he is without hope and with God in the world, and that the divine standing is what causes, or the moving cause of the sinner repenting. In support of the above view I will give a quotation of scripture, Romans II, 4, latter clause of said verse: "Not knowing the goodness of God leadeth thee to repentance?"

Q. Then if I understand you, they become a child of God before repentance, is that correct?

A. We believe that the formation of the coming together, if the two standing takes place, then they are lead to repentance.

Q. Then if I understand you, they become a child of God before repentance?

A. I do not understand what you mean by "becoming a child of God."

Q. In your answer to a former question you explained that the creation was made up of two component parts, and when they united so as for the divine portion to partake of the natural portion of element; and the natural element to partake of the divine, they were lead then to repentance. Then if I understand you they become a child when that union takes place, and if I understand your answer that union took place before repentance, and my question is, am I right?

A. You do not understand me if that is your understanding.

Q. I will now ask you to state just when they become a child of God, whether before that union takes place or after, and whether before or after repentance?

A. We believe, as before stated, that God's children are made up of two component parts, one from the earth, which by reason of same is corrupt, which is the product of the first man, Adam, which is of the earth earthy. The other is a product of the offspring of God, which is Christ, the Hope of Glory revealed in them or given them by the Father, and this life or divine offspring is wholly undefiled, uncorruptable, and can not be corrupted, consequently when those two standing come together in the purpose of God, they are as much a child of God as they will ever be; but they do not realize the forgiveness of their sins until they are lead to repentance and crucified with Christ; that is the old man being crucified and the new man of eternal life; offspring is renewed in them by the Holy Ghost.

Q. Is that portion of the creature which you term a creature in

Christ not the creature or a part of the creature at all times from birth, according to the doctrine you advocate and preach?

A. We do not believe that that portion of as the offspring of God to be a creature.

Q. What I want to know is, is the creature, or what you term the child of God, possessed of two component parts you spoke of at all times from its natural birth, according to the doctrine you preach and advocate?

A. We preach and advocate that it is not in us to know as to that, from the fact we have in the scriptures that John, the Evangelist, was filled with the Holy Ghost, or this spirit from his mother's womb. We are also of the opinion and believe that there are others that do not receive it until grown up manhood and womanhood, and may not receive it until the very last hours of this life.

Q. Do you preach and advocate the doctrine that there is no immortal part of man until he receives this spirit you spoke of, what I mean by "immortal" is the part that will never die and which is sometimes called the soul.

A. We believe from a scriptural standpoint that God with his attributes is the only immortal being there is. I mean by "attributes" as expressed in the first item of the Article of Faith of the Sandlick Church that it was governed by, and has been governed by since the year 1885, which reads as follows: "We believe in one true and living God—Father, Son and Holy Ghost—these three in one." We also understand the scriptures to teach and to say that he only hath immortality dwelling in the light. We believe further and teach that the Adam creature himself is the soul referred to in the scriptures in Genesis, speaking of man becoming a living soul, and that that man will die a natural death, and is expressed in the Eighth Item of the Article of Faith of the Sandlick Church under which it has been governed ever since 1885, and reads as follows: "We believe in the resurrection of the dead and a general judgment, and that the joys of the righteous and the punishment of the wicked will be eternal." Therefore, we believe that it is the Adam man, or creature, that will ultimately be housed in the kingdom of God to ever be with Him, or go down to a lake that burns with fire and brimstone, and not something in the man, leaving the man out of the arrangement.

Q. Is it not also preached and advocated by you and your associates, I mean the elders of what you call the Sandlick Church and those that preach there with you, that that portion of Adam's race which was not included in the eternal covenant, as you term it, will never be visited with or by the spirit which you say exercised the creatures to such an extent as that he will be enabled to know good and evil?

A. I never said that the creature was exercised to such an extent to know good and evil, if I understand your question, but we do advocate and preach and believe, or I do, that those who are not embraced in Christ or the covenant do not know good and evil; and what we mean by this is, that "there is none good save God," and when we are brought to the knowledge of God and made to know God that manifests the evil that is in them, and this is the good and evil, as we understand the scriptures to be speaking of.

And in support of the idea I will give a quotation of scriptures: "This is life eternal to know the only true God and His Son Jesus Christ whom he hath sent."

Q. Then is it not preached and advocated by you and your associates that there is a portion of the Adamic family that will never be visited by the spirit and enlightened, or shown by the power of God that they are sinners and in a lost condition?

A. We do. We do not believe that the spirit of God visits and enlightens those who are taken away in infancy, or idiots, but believe and preach as indicated and embraced in the Fifth Item of the Articles of Faith above referred to which reads as follows: "We believe that sinners are called, converted, regenerated and sanctified by the Holy Spirit, and all who are thus regenerated and born again by the spirit of God shall never fall finally away."

Q. Do you and your associates or not advocate the doctrine that none are called except those who are converted, regenerated and sanctified by the Holy Spirit?

A. We believe and preach as set forth in the Fifth Item that God calls sinners to repentance, and whomsoever he calls is converted, regenerated and sanctified by his spirit. And we further believe that the scriptures where they say, "Many are called, but few are chosen," means all of God's children are called to obedience to the law of Christ; and those that are chosen are those of God's children who are chosen and ordained and set apart to the praise of his glorious grace.

Q. Do you mean by the phrase, "God's children," as used in your last answer only those that will be ultimately saved eternally in heaven.

A. I do.

Q. Then is it not a fact that you and your associates preach and teach that there is a class of people, or a portion of Adam's race, other than infants and idiots, that are never called by God's power and shown that they are sinners?

A. We believe that there are some of Adam's race that does not know by the power of the spirit of God that they are actual sinners before God, do not know it, can not know it, until that spirit of God is implanted in them.

(The witness declining to make a direct answer to the question, he shall be in contempt of the Court and required to answer before the Court on the third day of the term to show cause why he does not make a direct answer, and until then the Plaintiffs further decline to cross-examine the witness until the rule is passed on by the Court.)

(At this point the Defendants except and object to each and every question and answer thereto which is not responsive in the pleadings in the above styled case, and so much thereof as is irrelevant and incompetent, and the witness makes the following statements as re-direct evidence, and says:

"That we, that is the Defendants and those associated with them who claim to be the Sandlick Church, believe, preach and advocate that there is one true and living God, Father, Son and Holy Ghost, these three are one.

"We preach and believe that the scriptures of the Old and New

Testament are the written words of God and the only rules of faith and practice. We believe and preach the doctrine of election by grace as expressed in the Third Item of the Articles of Faith of the Sandlick Church. We believe in the doctrine of original sin and in man's impotency to recover himself from the fallen state he is in by nature, by his own free will and ability.

"We believe and preach that sinners of Adam's race are called, converted and sanctified by the Holy Spirit, and all who are thus regenerated and born again by the spirit of God shall never fall finally away. We believe that sinners are justified in the sight of God only by the imputed righteousness of Jesus Christ, as expressed in the Sixth Item of Articles of Faith above referred to.

"We believe and preach that the baptism, the Lord's Supper and feet-washing are ordinances of Jesus Christ and that true believers are the only proper subjects of these ordinances, and we believe the only true mode of baptism is by immersion, as expressed in the Seventh Article of Faith above referred to.

"We believe and preach the resurrection of the dead and a general judgment, and the joys of the righteous and the punishment of the wicked will be eternal, as expressed in the Eighth Item of the Articles of Faith referred to.

"We believe and preach that no minister has no right to administer the ordinances except such as are called and come under the imposition of the hands of the bresbytery. We believe and so preach the doctrine embraced in the Ninth Item of the Articles of Faith ever since that we was authorized by the Church to preach, did believe, preach and advocate the doctrine embraced therein, up to and after June 3, Saturday, 1896. Elder S. C. Caudill during his lifetime, who was moderator of the Church, was a strong believer and advocated to our understanding, the principles of the doctrine set forth in said Articles of Faith up until the year 1896.

"I have been acquainted with Elder Peter Adkins for 32 years, and when he first came to this country 32 years ago he was a firm believer and advocated the principles of the doctrine set forth in said Articles of Faith. I never heard of him or any other Primitive Baptist that has preached at Sandlick Church since the adoption of said Articles of Faith, preach any other doctrine than that which to my knowledge and understanding is embraced in said Articles of Faith. And we want to say now, that we and those who are associated with us are willing with the members of the Church, that was members on the third Saturday in June, 1896, to have the same privilege as any other member of the Church when they submit themselves to the ruling and government of said Church under which the Church was ruled and governed on the third Saturday in June, 1896."

By permission of the Court I wish to make another statement which I forgot yesterday.

Sometime in the year 1897 I moved from this county and went to Rowan County, and returned to this county sometime along about the year 1903 or 1904, am not positive as to what year. When I returned to this county I moved to within about two miles of the church house and lot of land in dispute in this action, found the church house and lot turned outside, public travel through the

lot, portions of the roof of the house falling in. Sometime after I returned, and after the year 1895, after we had all met and was reconciled to each other as above stated in my deposition in chief, myself, Peter Adkins, S. G. Fairchild, trustees of the Church, as I now remember, laid the matter before the Church, the condition of the house and lot, and by mutual agreement of all that was present, we undertook to have the house repaired and enclosed by a fence. Myself and Peter Adkins made arrangements to have the shingles made to cover the house with and employed J. D. Caudill to cover the house. I purchased nice locust posts and had the lot fenced in. Some of the members and friends helped to furnish plank to fence the lot and probably paid some on having the house covered. Elder S. C. Caudill, who then was living, furnished a portion of the timber out of which to make the shingles, Peter Adkins had the most of them hauled.

We also found there was no stove in the house that could be used, and nearly all the window panes had been broken out. We also repaired them.

At that time the member that had been associated with Elder Caudill, and especially the Plaintiff, Sabrina Caudill, lived within something near 300 or 400 yards of the church house. She never made any complaint or any objection, to our knowledge. Elder S. C. Caudill lived the latter part of his life within something near 300 yards of where I lived. I visited him frequently in his sickness, set up, waited on him a great many nights, and he always expressed to me the warmest gratitude and friendship, and seemed to be very much pleased because of the reconciliation of the Church—they all getting together again in his lifetime.

I also was with William Caudill during the last part of his life—the same William Caudill who is a brother of the Plaintiff, W. G. Caudill and to Elder S. C. Caudill. The said William Caudill at the time of his trouble in the year 1896, was in this county and seemed to take a very active hand with the ones who was at that time associated with the Plaintiff, Sabrina Caudill; that during the last six months of his life, outside of about one month, he lived with me, and I took care of him, and during his sickness he expressed great admiration in the doctrine we advocated, and wrote a letter to his brother, S. C. Caudill, to quit fighting against the doctrine that we advocated, and wrote him a letter requesting him to be reconciled to us, and asked him in the letter to come and see him, and if he could not, to be sure and write him. After that time he was not able to go to the postoffice and I carried to him all his mail. After waiting some time for an answer from his brother he then had the letter published in the paper and paid for the publication of it himself, and had it addressed to his brother, S. C. Caudill, and placed in the United States Mail for him. This was a short time before he moved back to this county and before the reconciliation was made before spoken of.

(At this point the Plaintiffs by counsel object and except to all the statement of the witness with reference to what William Caudill said and anything he did or said, because same is incompetent and irrelevant.)

At this point it is agreed that the Defendants may introduce

other evidence than the Defendant, J. M. Hall, S. G. Fairchild, J. W. Fairchild, and said parties may testify after the introduction of other evidence with the same effect as if taken before introducing other witnesses.

DIRECT EXAMINATION OF S. G. FAIRCHILD

By Robert Blair.

Q. State your name, age and residence.

A. S. G. Fairchild, 51 years of age, and reside in Letcher County, Kentucky, on Sandlick, beyond Whitesburg.

Q. How long have you lived on Sandlick?

A. Fourty-four years.

Q. How far from the property in dispute do you live?

A. About two miles.

Q. Are you acquainted with the Plaintiffs, W. G. Caudill, Sabrina Caudill, Joe Hall and Polly Ann Craft?

A. Yes, sir, I am.

Q. How long have you been acquainted with them?

A. I have been acquainted with all except Joe Hall ever since I was a child.

Q. What relation are you, if any, to W. G. Caudill, Sabrina Caudill and Polly Ann Craft?

A. Nephew.

Q. State whether or not you are a member of the Sandlick Church?

A. I am.

Q. How long have you been a member of that Church?

A. Since 1889.

Q. Was the regular meetings held on the land in dispute when you became a member of said Church?

A. Yes, sir, they were.

Q. Tell the Court if it is customary among the Primitive Baptists to have a moderator and a clerk for each Church?

A. It is.

Q. I will get you to tell the Court whether or not it is customary among the Primitive Baptists to also have an assistant moderator sometimes?

A. It is.

Q. Who was moderator of the Sandlick Church when you became a member of the Church?

A. S. C. Caudill.

Q. What relation was Elder S. C. Caudill to the Plaintiff, W. G. Caudill, and Polly Ann Craft?

A. Brother.

Q. Were you still a member of the Sandlick Church on June 3, Saturday, 1896?

A. I was.

Q. Tell the Court whether or not at the June meeting, 1896, if there was any division of the minds of the brethren and sisters on any occasion?

A. There seemed to be a division at that time.

Q. Tell the Court whether or not at that time or at any other time, at a meeting held at the church house at regular meeting

time, the Defendants, Joseph Fairchild, Robert Blair, S. G. Fairchild, and one Peter Adkins, absented themselves from the Sandlick Church and left the church house while the business of the Church was being conducted?

A. They did not.

Q. Tell the Court whether they went to another point or place and organized themselves into what they termed a body and named that body the Sandlick Church?

A. No, sir, they did not.

Q. Tell the Court whether or not the Defendant, Joseph Fairchild was a member of the Sandlick Church at that time?

A. He was not.

Q. Was David Sergent a member of the Sandlick Church at that time?

A. He was not.

Q. Who was clerk of the Church on that occasion?

A. I was.

Q. Did you have all the records and proceedings of the said Church present with you on that occasion?

A. I think not.

Q. Did you have any of the records there except Book No. 2 on that occasion?

A. No, sir.

Q. Have you examined the record as Clerk in a manner that you could tell the Court how many meetings has been held by the Plaintiffs and those associated with them as the Sandlick Church since the year 1896?

A. About 150 on record.

Q. Tell the Court whether or not that the matter of, you say the minds of the Church was divided, was debated at the Church by the members thereof?

A. They were.

Q. Then tell the Court whether or not that the matter was carried to the Sandlick Association and presented to the association by both parties who claimed to be the Sandlick Church?

A. They were.

Q. Tell the Court in whose favor that was decided by the Sandlick Church?

A. It was decided in favor of the Defendants and those associated with them.

Q. Tell the Court whether or not that the Plaintiffs, or either of them, was ever received into the fellowship of the churches belonging to the Sandlick Association at that time, or with whom the Sandlick Association was classed until the year 1905?

A. I think not.

Q. I will get you to tell the Court whether or not as a member of that Church you were frequently delegated to the Sandlick Association by said Church?

A. I was.

Q. Do you know whether or not there was any trouble in the Sandlick Church prior to the third Saturday and Sunday in June, 1896, under which the trouble grew out of, or does the record show?

A. Yes, sir, the record shows that the Church was in love and fellowship, and nothing of record shows there was any trouble in said Church.

Q. I will get you to tell the Court whether or not the record shows that Robert Blair was an ordained elder, in full love and fellowship in the Sandlick Church on the third Saturday in April, 1896?

A. It does.

Q. I will get you to tell the Court who was moderator of the Church on that day, if you can?

A. Elder S. C. Caudill.

Q. I will get you to tell the Court whether or not there was a letter of request prepared by the Sandlick Church on the third Saturday in April, 1896, to the Millstone Church.

A. There was.

Q. I will get you to tell the Court who signed that letter as moderator of the Sandlick Church?

A. S. C. Caudill.

Q. What association was the Millstone Church then a member of?

A. Union Association.

Q. Will you refer to that letter and make it a part of your deposition?

A. I will.

Q. I will get you to turn to the record and tell the Court what occurred at the regular meeting time in May, 1905.

A. They agreed to meet at the next meeting to see if they could be reconciled to S. C. Caudill and those associated with him.

Q. Anything else done?

A. There was a committee appointed to visit the members and tell them what the object of the meeting was, and invite them to their seats to see if reconciliation could be made.

Q. Tell the Court what persons were appointed as a committee to wait on the brothers and sisters?

A. David Sergeant, W. J. Bates, Elder Peter Adkins, Robert Blair and Sister Rachel Blair.

Q. Turn to the record and tell the Court what members were present in the year 1896 at the June meeting that stood with Elder S. C. Caudill?

A. A. C. Caudill, L. F. Adkins, S. J. Caudill Eli Brown, Letitia Holcomb, Albertine Morton, Polly Jenkins, Polly Ann Craft, Sarah Frazier and Celia Adams.

Q. Is Elder S. C. Caudill dead or living?

A. He is dead.

Q. Where is L. F. Adkins, do you know?

A. I do not know.

Q. Where was he the last time you had information as to his whereabouts?

A. Somewhere in the West, Washington, I think.

Q. Tell the Court whether or not when he left this country he abandoned his wife and infant children and left this country?

A. He did.

Q. I will ask you if he has ever returned to this country since he first left, to your knowledge?

A. Never did.

Q. I will ask you if his wife and children are still in this country, so far as you know?

A. They are.

Q. Do you know whether or not he has ever married again?

A. I do not know.

Q. What has become of Abertine Morton?

A. I think she is dead.

Q. What has become of Sarah Frazier?

A. She is dead also.

Q. What has become of S. J. Caudill?

A. Dead.

Q. What has become of Polly Jenkins?

A. She is also dead.

Q. What has become of Eli Brown?

A. Dead.

Q. Sarah Brown?

A. She is dead, too, I think.

Q. How long has it been since L. F. Adkins left this country?

A. It has been quite a while. He left a few years after the division of the Church.

Q. Has he been away from here over 15 years?

A. I think so.

Q. Tell the Court whether or not at the June meeting of the Sandlick Church in the year 1905 reconciliation was made between the Plaintiff, Sabrina Caudill, and those members of the Church that were associated with her, and the Defendants, and those associated with them?

A. It was.

Q. Was she present at that time?

A. She was.

Q. Was Elder S. C. Caudill restored to the fellowship and moderatorship of said Church at that time?

A. He was.

Q. Tell the Court whether or not he remained moderator of the Church to which the Defendants belong from June, 1905, until his death?

A. He did.

Q. At the time of the reconciliation spoken of in the question above, I will get you to tell the Court whether or not the Plaintiffs and those associated with them delivered the possession of the house and lot and the keys to said house to the Church then composed of the Defendants, Robert Blair, Peter Adkins and those associated with them, and such of the members of the Church that was alive that had associated themselves heretofore with Caudill and his following?

A. They did.

Q. And have they so held the Church meetings in the church house upon the lot of land in dispute ever since?

A. They have.

Q. Tell the Court how long the Plaintiff, Sabrina Caudill, re-

mained a member of the Church after June 3, Saturday, 1905?

A. Until January, 1908.

Q. Tell the Court for what she was excluded from the membership of said Church?

A. For failing to fill her seat and breaking the covenant of reconciliation made in the year 1905.

Q. Tell the Court whether or not the Plaintiffs or any one associated with them ever held any meeting at the Sandlick Church after the reconciliation until sometime in the year 1911 or 1912?

A. If they did, I don't know it.

Q. About how long had Elder S. C. Caudill been sick and unable to attend his meetings at the meeting house before June, 1905?

A. I think it had been about five years.

Q. Was he ever at the church house on the land in dispute after the year 1905, the date of the reconciliation?

A. He was not.

Q. How long after the reconciliation did he live, if you know?

A. I don't remember just exactly how long, two or three years, I think.

Q. How far do you live from where the Plaintiff, Sabrina Caudill, lives?

A. About one and one-half miles.

Q. How far does she live from the church house and lot of land in dispute in this action?

A. Something near a half a mile.

Q. Did you at any time ever hear or know of her claiming to be the Sandlick Church, or any part of it, from the time she was excluded from the fellowship of said Church in January, 1908, until a short time prior to the bringing of this action?

A. I did not.

Q. Tell the Court whether or not the Sandlick Association of Regular Primitive Baptists and the Indian Bottom Association of the Old Regular Baptists has ever been considered of the same faith and order?

A. No, sir.

Q. Is the Indian Bottom Association of Regular Baptists in correspondence with any association with which the Sandlick Association is in correspondence?

A. I think not.

Q. Has it ever been, since it was organized?

A. I think not.

Q. Have you ever read their Articles of Faith?

A. I have not examined it.

Q. Have you examined the Articles of Faith that the Sandlick Church was constituted on?

A. I have.

Q. I will get you to tell the Court whether or not the Sandlick Church ever at any time adopted another Article of Faith than the one on which it was constituted?

A. Yes, sir, it did, in the year 1885.

Q. Tell the Court whether or not you, Robert Blair and Peter Adkins, or any members of the Sandlick Church associated with them ever since or prior to the year 1896, preached and held out

the public an entirely new doctrine which is not embraced in the Articles of Faith of said Church?

A. No, sir, they have not.

Q. I will get you to tell the Court if it is not a fact that Robert Blair and Peter Adkins are the only elders that are now living that were members of the Church at that time?

A. I think they are.

Q. I will get you to tell the Court that all the doctrine that they have preached and held out to the public, so far as you are able to judge, is embraced in the Articles of Faith of Sandlick Church?

A. It is.

Q. I will get you to tell the Court whether or not the Defendant, Peter Adkins, has changed his doctrine, so far as you have been able to judge, since you first knew him?

A. He has not.

Q. How long have you known Peter Adkins?

A. About 30 years.

Q. I will get you to tell the Court whether or not Robert Blair has ever changed in the principles of doctrine since the date the Sandlick Church ordained him to preach the gospel?

A. I think not.

Q. I will get you to tell the Court about how often each year you have heard Peter Adkins and Robert Blair preach since the year 1890 until the year 1908?

A. About once a month.

Q. Tell the Court whether or not they always adhered strictly to the doctrine embraced in the Articles of Faith of said Church as adopted in the year 1885?

A. I think they did.

Q. I will get you to tell the Court whether or not they have at all times showed themselves willing to be governed by the rules and regulations of said Church?

A. I think they have.

Q. I will get you to tell the Court whether or not Polly Ann Craft is a member of the Sandlick Church now?

A. She is not.

Q. I will get you to tell the Court for what she was excluded from the Church?

A. She joined another Church, a different faith and order from that of the Sandlick Church.

Q. I will get you to tell the Court whether or not the Plaintiff, W. G. Hall, has been in fellowship of the Primitive Baptist, especially with those of the Sandlick Association, and the ones with whom they correspond, for the last 20 or 25 years?

A. I think not.

Q. I will get you to tell the Court whether or not he belongs to an association of the same faith and order of the Sandlick Church?

A. I think not.

Q. Did he belong to one association of the said faith and order of the Sandlick Church in the year 1895?

A. I think not.

Q. Did you at any time ever give the Plaintiffs, W. G. Caudill, W. G. Hall, Sabrina Caudill, William Ramey, Polly Ann Craft, or

either of them, any right or authority to institute and to prosecute this suit, for or on behalf of yourself or any other member of the Church?

A. I did not.

Q. Did the Sandlick Church as constituted ever give them authority by record or otherwise, to sue for and on behalf of the members of the Sandlick Church?

A. Not to my knowing.

Q. Was the Plaintiff, W. G. Caudill, ever a member of the Sandlick Church, or did he ever claim to be a member of any Church until since the year 1910?

A. If he ever did, I never knew it.

Q. I will get you to tell the Court whether or not the Plaintiffs, and those associated with them, ever held any meetings and attempted to keep up the property after Elder S. C. Caudill's health got so he could not visit the Church, until the year 1905, and the time of the reconciliation?

A. I think not.

Q. I will get you to tell the Court the condition of the property in the years of 1903 and 1904, as near as you can?

A. The lot was turned outside, no fence around it, and the roof had almost rotted off, and the window lights mostly broken out, and the property was in bad shape.

Q. What did the Defendants and those associated with them do with the property after they began to hold meetings in the property, about the time of the reconciliation, or just after?

A. They fenced the lot, covered the church house, repaired the window lights and put a new stove in the house.

Q. Tell the Court whether or not the Plaintiffs or either of them ever to your knowledge, demanded the possession of the house and lot or any part thereof, of the Church while it was in session?

A. They did not.

Q. Tell the Court whether or not the Church in session has ever made an order requesting the members of the Church who is now associated with the Plaintiffs, and was associated with the Defendants in the year 1905, to return to the house and fill their seats and submit themselves to the orders of the Church?

A. They did.

Q. What did you do with reference to that order, if anything?

A. I mailed a copy to different members of the Church who had identified themselves with these Plaintiffs.

Q. Have they, or any of them, ever returned?

A. They have not.

Q. I will ask you whether or not the Church has at all times manifested a willingness to receive them back into the fellowship of the Church when they became willing to submit themselves to the rules and regulations of the Church, and to the Articles of Faith of the Church as adopted in the year 1885?

A. They have.

Q. I see in the Articles of Faith that was originally adopted by the Sandlick Church, being the Fourteenth Item of said Articles of Faith, which reads as follows: "We believe it the duty of all Church members to contribute for the support of the gospel and

to defray all reasonable expenses of the Church, never neglecting the poor, according to their several abilities." I will now ask you, if to your knowledge, that if it has ever been the practice of the Primitive Baptists to contribute to the support of the gospel?

A. It has not, to my knowledge.

Q. I will ask you if the Primitive Baptists so far back as you have knowledge, have preached and believed that the gospel was the power of God unto salvation to them that believe?

A. Yes, sir.

Q. I will also ask you if it is not a fact that they preach and believe that Jesus Christ is the power of God and the wisdom of knowledge?

A. They do.

Q. Were you, in the lifetime of Elder S. C. Caudill, sufficiently acquainted with the doctrine that he preached that you can say whether or not he preached and advocated the doctrine of special atonement, or the doctrine of general atonement?

A. Yes, sir, I think I was. He preached the doctrine of special atonement.

Q. I will get you to tell the Court whether or not the same evening that the trouble arose in the Sandlick Church in the year 1896, if Sarah Brown attended the meeting in the evening, when they met to finish the work of the day at the home of Robert Blair?

A. She did, and made an acknowledgement for standing with the other side, stating that she did not understand what they done. She was restored to fellowship and the Church forgave her and received her into the full fellowship of said Church.

Q. Who are the trustees of the Sandlick Church now?

A. Peter Adkins, Robert Blair and myself.

Q. Who were the trustees prior to the year 1905, if you remember?

A. I think they were Peter Adkins, Robert Blair and S. J. Caudill.

Q. Is that the same S. J. Caudill that was in the meeting at the time of the reconciliation?

A. It was.

Q. I will get you to tell the Court whether or not S. J. Caudill from the time of the reconciliation on up until his health became so he was not able to visit the Church, if he visited the Church and filled seat as a member with the Defendants?

A. He did.

Q. I will ask you if ever at any time you heard him or Elder S. C. Caudill, Polly Ann Craft express any dissatisfaction about the reconciliation?

A. I think not.

Q. Has there, or not, ever been any division of the Sandlick Church since June, 1905?

A. There has not.

Q. Was there ever any except the one spoken of in the year 1896?

A. Not that I know of.

Q. Do you know when the Sandlick Association was instituted, or organized?

A. According to the record it was November, 1876.

Q. Will you please give the names of the presbytery that constituted the association?

A. William Cook, Henry Day, James Williamson, John Creech and James Dixon.

Q. Are any members of the Presbytery still living, to your knowledge?

A. They are not.

Q. Are you acquainted with the Articles of Faith and Constitution of the Sandlick Church?

A. I think so.

Q. Will you please refer to said Articles of Faith and Constitution and make same a part of your deposition herein?

A. I will.

And further deponent saith not.

State of Kentucky,

County of Letcher:

I, Minnie L. Hawk, Notary Public in and for the county and state aforesaid, do hereby certify that the foregoing depositions of Robert Blair and S. G. Fairchild were taken before me at the time and place and for the purpose stated in the caption; that each of said witnesses were duly sworn by me before giving said depositions; that same were taken in shorthand and afterwards transcribed by me, and same is a true and correct copy.

The Plaintiff, W. G. Caudill, was present in person, and by D. D. Fields, attorney; and the Defendant and Attorney Robert Blair was also present.

EXHIBITS

Request No. 1.—November the third Saturday, 1894, the Sandlick Church met and proceeded to business, the reference from last meeting was called for, then the case of Brother William M. Jenkins and William J. Tyree was taken up. They still said that they did not believe some of the doctrine advocated by the Sandlick Church. One point of doctrine that was rejected is "special atonement." They said they wished to withdraw from the Church. Then Brother John Cornett said he wished to withdraw, too, and assigned the same reason.

It was then ordered by the Church to make a record excluding those three members from the Church.

Then came forward a request from Brother J. W. Fairchild to give him a letter of dismissal from the Sandlick Church, and stated that he wanted to join the Dry Fork Church, Rowan County, Kentucky, which request was granted, and he is hereby dismissed from this Church when joined to another Church of the same faith and order.

Done and signed by order of the Church.—Elder S. C. Caudill, Moderator; S. G. Fairchild, Clerk.

Request No. 3.—May 16, 1896. The Sandlick Church of Regular Primitive Baptists met at the meeting house on the third Saturday in May, 1896. After prayer by Elder S. C. Caudill, the Church was

called to a seat by Elder Peter Adkins, Assistant Pastor. The members said by their actions that they were in love.

Elder Adkins asked the Church if they would invite members of their faith and order to be seated with them, or would they transact their business alone. Upon motion and second it was agreed to have members of our sister churches seated with us.

Brother L. F. Adkins then asked that our Articles of Faith be read, which the Clerk did. Elder J. W. Fairchild, formerly a member and minister of this Church, having been granted a letter of dismissal from us and now a member of Dry Fork Church in Rowan County, Kentucky, stated that he believed the Church to which he belonged had the same Articles of Faith as the Sandlick Church and that he believed as they stated. The scriptures are the true written word of God and the only rule of faith and practice, and indorsed all doctrine and practice that is sustained by them.

He further stated that he is a firm believer in the doctrine of absolute predestination of all things and the eternal oneness of Christ and His Church, and would preach it when and wherever he preached, should his thought be directed upon these principles. That Elder S. C. Caudill had told him heretofore that he could not fellowship that doctrine and he desired to know if the Church considered him of their faith and order.

Elder S. C. Caudill then said he could not fellowship that doctrine which Elder Fairchild held so sacred. Elder Blair then asked Elder Caudill if he was not one of the Presbytery that ordained him (Elder Blair) and did not Elder Fairchild, Moderator of that Presbytery, ask him if he believed that anything comes to pass contrary to the will and purpose of God, and he stated that he did not, and Elder Caudill helped ordain him upon that confession. Elder Caudill said he did and arose and made his acknowledgement for doing so.

The Moderator, Elder Adkins, then requested all the members that considered Elder Fairchild to be of the faith and order of the Sandlick Church, to rise to their feet. Elder Blair and Brother S. G. Fairchild stood up. Then the question was reversed. Those that do not consider him of their faith and order, to rise. Elder S. C. Caudill, Brother L. F. Adkins, S. J. Caudill and Eli Brown and Sisters Letitia Holcomb, Abatine Morton, Polly Jenkins, Sarah Brown, Polly Ann Craft, Sarah Frazier and Sealey Adams stood up. Upon being asked if he considered Elder Fairchild of the faith and order of the Sandlick Church, Elder Adkins said he did, that the doctrine preached by Elder Fairchild is the doctrine he fully believes and he would stand with it if he had to die for it.

NO account of confusion and disorder Elder Adkins refused to proceed further at that time with the business of the Church, and he, Elder Blair and Brother S. G. Fairchild withdrew fellowship from those who had rejected the doctrine preached by Elder Fairchild.

Then Elder S. C. Caudill upon request of L. F. Adkins acted as Moderator for those disorderly brethren who had rejected the faith and order of the Church and assuming themselves to be the Sandlick Church, proceeded with the business. Elder Caudill ap-

pointed L. F. Adkins clerk and then stated that the difficulty between Sandlick Church and Millstone Church was settled and the brethren from Millstone were welcome to a seat.

After they had closed their service Elder Blair announced that there would be preaching at his home in the afternoon.

Elder Peter Adkins and Robert Blair, Brother S. G. Fairchild and Sister Rachel Blair, who stand on the faith and order of the Church, met at Elder Blairs' according to announcement and proceeded to finish the work of the Church for that day, Elder Adkins still acting as Moderator. Sarah Brown took a seat with us. When asked if she did not continue with the party who had rejected the doctrine preached by Elder Fairchild, she made acknowledgement for doing so, and said that she believed the doctrine preached by Elder Fairchild and desired to live in the Church with us.

We forgave her and welcomed her to a seat. Members of other churches of our faith and order were invited to a seat and Elder J. W. Fairchild and Lidie Fairchild of Dry Fork Church, Rowan County, Kentucky; Brothers T. G. Woods of Big Leatherwood Church, Perry County, Kentucky; David Sergent of Colly, Jessie Holbrook of Millstone, and Martha Blair of Thorton Church were seated with us.

The reference in regard to the Millstone Church was read. Brother Jessie Holcomb stated that he had not objected to the doctrine preached by Elder Blair; that he never heard him preach what some members of the Millstone Church accused him of preaching.

Those members that objected to the doctrine that he preached identified themselves with those members of Sandlick Church who have departed from the faith. We therefore declare them in disorder and withdraw the hand of fellowship from them.

The Church agreed to hold her next session at Brother Blairs' on the third Saturday and Sunday in June, 1896, as the ones that departed from us have possession of the house.

Then Elder Fairchild delivered a discourse from Peter 4:12, 13. Elder Adkins gave us a short talk and announced that the Church was ready to hear any one that might desire to unite with them.

Done and signed in behalf of the Church.—Peter Adkins, Moderator; S. G. Fairchild, Clerk.

Request No. 4.—June 20, 1896. The Sandlick Church of the Regular Primitive Baptists met at Elder Robert Blairs', the members present were in love. Members of our faith and order were invited, and Brother Gabriel Hughes from Providence, Sister Martha Blair from Thornton churches, and Elder J. W. Fairchild and Lidie Fairchild from Dry Fork Church, Rowan County, Kentucky, were seated with us. The minutes of last meeting were read and received. By move and second it is agreed to declare non-fellowship with those disorderly members of Sandlick Church, viz: Elder S. C. Caudill, L. F. Adkins, S. J. Cudill, Elie Brown and Sisters Lettie Holcomb, Abatine Morton, Polly Jenkins, Polly Ann Craft, Sarah Frazier and Seali Adams, because they have denied the faith and order and declared non-fellowship with the doctrine of the Church and are fellowshiping members of other churches not in fellowship with Sandlick Church, members of churches that have dropped

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from Sandlick Association because they were in disorder we therefore withdrew the hand of fellowship from them and no longer hold them as members of our Church.

As July is our regular communion time and we are destitute of deacons, it is agreed to invite the members and deacons of Lotts Creek, Big Leatherwood and Providence Churches to meet with us on the third Saturday and Sunday in July, 1896, to commune with us, and we appoint our brethren, viz: Elder Peter Adkins and Brother S. G. Fairchild to bear letters of request to each of these churches.

It is also agreed that we elect a Moderator next meeting. Elder Adkins then announced that the Church was ready to hear anyone who might wish to unite with us. Brother Jesse Holbrook of Millstone Church, states that nerly all the members of the Millstone Church had departed from the faith and gone into disorder with party which left Sandlick Church, and that he stands by the faith and order of the Church and desires a home with us. The Church knowing his statement to be true, received him.

Our next meeting is agreed to be at the Sandlick School House. Done and signed in behalf of the Church.—Peter Adkins, Moderator; S. G. Firchild, Clerk.

Request No. 5.—July 18, 1896. The Sandlick Church of Regular Primitive Baptists met at the schoolhouse on Sandlick, was in love and fellowship; brethren of our faith and order were invited and A. L. Allen from Bethel Church, Floyd County, Kentucky; James M. Hall from Big Leatherwood, Perry County, Kentucky; J. W. Fairchild from Dry Fork Church, Rowan County, Kentucky; Gabriel Hughes and wife from Providence Church, Letcher County, Kentucky, and Martha Blair from Thornton Church, Letcher County, Kentucky, were seated with us.

The reference relative to choosing a Moderator was referred to next meeting.

Brother Peter Adkins and S. G. Fairchild, who was appointed to visit Lotts Creek, Big Leatherwood and Providence Churches to invite their deacons and members to our community meeting reported.

The request was granted from all of these churches and Elder James M. Hall from Big Leatherwood and Gabriel Hughes and wife from Providence attended.

By move and second it was agreed to change the time of holding our meetings to the second Saturday and Sunday in each month.

It is agreed to have a letter to the Sandlick Association prepared to be read at next meeting, and Elder Peter Adkins and Robert Blair and Brother Jesse Holbrook and S. G. Fairchild agrees to attend said association to commence Friday before the second Saturday in September, 1896, at Big Leatherwood Church at the mouth of Mason Creek, Perry County, Kentucky.

By order of the Church Brother Jesse Holbrook is appointed Trustee in place of S. J. Caudill, and he, Robert Blair and S. G. Fairchild are appointed to ask for the key to the church house for the purpose of holding our meetings there.

The Moderator announced that the Church was ready to hear anyone who wished to unite with us. Sister Elizabeth Holbrook

of Millstone Church stated that nearly all the members of the Millstone Church has gone off in disorder and she wishes to leave them and desires a home with us. The Church received her.

On Sunday the sacramental services were postponed to our next meeting.

Done and signed in behalf of the Church.—Peter Adkins, Moderator; S. G. Fairchild, Clerk.

Request No. 6.—August, Second Saturday, 1896. The Sandlick Church of Regular Primitive Baptists met at the schoolhouse on Sandlick, in love. Brethren of our faith and order were invited to be seated with us, and Elder A. L. Allen from Bethel Church, Floyd County, Kentucky; Elder J. W. Fairchild and Lidie Fairchild and William Patton from Dry Fork, Rowan County, Kentucky, were seated with us.

Elder Peter Adkins was chosen Moderator, Elder Robert Blair, Brothers Jesse Holcomb and S. G. Fairchild who were appointed to ask for the key to the church house reported they failed to get the key. They were reappointed to see S. J. Caudill and have him to inquire of the body of the Church to see if they would let us have a key.

The letter to the association was read and received on Sunday, the communion services were performed. Our next meeting is to be in October.

The Moderator announced that the Church was ready to hear anyone who might wish to unite with her.

Done and signed in behalf of the Church.—Elder J. W. Fairchild, Moderator pro tem; S. G. Fairchild, Clerk.

Request No. 7.—November, First Saturday, 1900. The Sandlick Church met at Brother Jesse Holbrooks' and was found in love. Brethren of other churches of the same faith and order were invited to a seat with us. Called for reference on record and found the case relative to Brother Stephen Fairchild which was continued till next meeting.

Called for gospel dealings and found none. The brethren and sisters, to-wit: David Sexton, Julia Sexton, his wife, and John Collins received the ordinance of baptism. The Church door was opened on Saturday and remained open till the close of the meeting and none responded.—Elder Peter Adkins, Moderator; David Sergent, Clerk.

Request No. 8.—June, First Saturday, 1904. The Sandlick Church met at the Sandlick church house and was found in love. Called for brethren of the same faith and order to a seat with us.

Then called for reference on record and found none. Opened the Church doors for reception of members and found none.—Elder Peter Adkins, Moderator; David Sergent, Church Clerk.

Request No. 9.—May, First Saturday and Sunday, 1905. The Sandlick Church met at the Sandlick church house, after prayer and preaching, on motion of Elder Robert Blair was chosen Moderator for the day. The inquiry for fellowship and all present manifested that they were in love and fellowship. Members of other churches of our faith and order were invited to a seat with us, called for reference and found the one against Brother David

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Sexton and wife and John Collins and wife, and on motion and second the reference was continued to our next meeting.

Then called for gospel dealings and found none. Then, whereas there has been trouble in our body, and, whereas, we feel that we are willing on our part to forgive our brethren and sisters that claimed a hurt against us over the doctrine of absolute predestination of all things and eternal vital unity of Christ and His Church, and whereas, we feel that we can and do freely forgive them of all that they have said and done against us along this line, and therefore ask them to forgive us of all we have said and done against them, and we therefore ask them to return and let us come together and live together as becometh the saints of God.

On motion and second the Church then appointed Brother David Sergeant, W. J. Bates, Peter Adkins, Robert Blair and Sister Rachel Blair to visit all of our beloved brethren and sisters and inform them of our action and invite them to return to Sandlick church house on the third Saturday in June, 1905, in order to manifest to each other our love for each other and the intention of living together as becometh the saints of God.

Done and signed by order of the Church.—Robert Blair, Moderator; David Sergeant, Clerk.

JUDGMENT LETCHER CIRCUIT COURT.

W. G. Caudill, Etc. Plaintiffs
 vs. [JUDGMENT.
 Robert Blair, Etc. Defendants

The Court upon reconsideration of the demurrer herein to the petition, and to the petition as amended, is of the opinion that the same does not state a cause of action about which the Court would have jurisdiction. The Plaintiffs fail to allege that either of them were members of said Church at the time the division came in 1896 and construing the petition most strongly against the petitioners, the Court presumes that they were not, and the Court is of the opinion that even though this action can be properly adjudicated by the Court, that the complainants have united to the Church since the division came, cannot be heard to complain as to any departure as to doctrine. The Court, therefore, sustains the demurrer to the petition and to the petition as amended, and dismissed said cause, to which ruling the Plaintiffs object and except and pray an appeal to the Court of Appeals which is granted. The Defendants will recover their costs herein.

COURT OF APPEALS OF KENTUCKY

Joe Hall, Etc. Appellants
 vs. [BRIEF FOR APPELLANTS.
 James M. Hall, Etc. Appellees

STATEMENT

This action was brought in the Letcher Circuit Court by W. G. Caudill, Sabrina Caudill, William Ramey and Polly Ann Craft, who

sue for themselves and all the members of the Sandlick Church of the Regular Primitive Baptist faith, against James M. Hall, Robert Blair, Peter Adkins, David Sargent and Joseph Fairchild, Appellees.

The controversy is with reference to the land and house known as the Sandlick Church House, and whether the same belongs to the Appellants or Appellees. The ground of this litigation is as to who really is now the Sandlick Church, the Appellants claiming that they are the Sandlick Church, and the Appellees claiming that they are the Sandlick Church. The Courts have recognized fully their authority to pass upon the ownership of the property conveyed to any religious society organized as a Church, but have recognized fully their inability to pass upon the ecclesiastical questions as to who is the church members and as to who is entitled to membership in a Church, that being a question left solely to the Church. These two questions have been so well settled by authorities that we deem it unnecessary to cite any authorities with reference thereto. The petition and amended petition shows that the Sandlick Church was organized in 1813; that it adopted an Article of Faith, elected a pastor; organized the body or congregation into what was known as the Sandlick Church of the Regular Primitive Baptist Faith; that the Articles of Faith were construed by its ministers and members as establishing certain fixed faiths or beliefs stated in the petition, and that these doctrines and faiths were preached, promulgated and believed in from the organization of the church until the defendants, Robert Blair, Peter Adkins and Joseph Fairchild, who had become members of this Church and had by this Church been authorized to act in the capacity of ministers or preachers, or had been authorized by some other Church from which they had come, to so exercise in public, and that these parties began to preach and advocate a different doctrine to that which had been preacher and advocated in this Church, and that they continued to preach and advocate that doctrine until in the year 1896 when defendant, Joseph Fairchild, as alleged in the petition, announced to the Church that he believed in the absolute predestination of all things and the eternal vital unity between God and His people, which doctrine was rejected by the Sandlick Church which caused the Defendants to absent themselves from said Church and the petition alleges that they went away and organized themselves into what they called the Sandlick Church; that the Defendant, S. G. Fairchild, who had been elected Church Clerk and was in possession of the records of the Church, carried same away when he and the other defendants left the Church. The amended petition shows that S. C. Caudill, who was pastor of the Church at the time, and the members who stayed with him, by proper proceedings excluded the Defendants from the Church, but that afterwards the Defendants unlawfully and without right obtained the possession of the church house and continued to hold possession of the church record, and the Appellants sought to be adjudged the owners of the house and entitled to the use and benefits of the house and land which had been deeded to the Sandlick Church, and to the use of the church record.

The Appellees filed both special and general demurrers to Plaint-

iff's petition and amended petition, both of which were overruled, as shown by this record, but later upon reconsideration of the demurrer the Court sustained one of the demurrers, but which one we cannot tell from this record. At any rate, without giving Appellants any chance to plead further the Court dismissed Plaintiff's petition as amended, and to reverse that judgment this appeal is prosecuted.

QUESTIONS TO BE DECIDED

First—Has the Plaintiff the right to maintain this action and has the Court jurisdiction of the questions arising in this action with reference to the property rights herein sought to be determined?

Second—Does the petition as amended state a cause of action?

ARGUMENT.

The question of the Court's jurisdiction to settle the questions of title to property claimed by different organizations calling themselves churches, are well settle in the cases of *Bennett v. Morgan* — Ky., page —, 66 S. W., page 287; *Cartier vs. Penick*, 5th Bush 110; *Kinhead v. McKee*, 9th Bush 535; *Watson v. Avery*, 2d Bush 332.

Has the Plaintiffs the right to maintain this action? The code provides that where parties to a litigation are numerous and their interests are identical, that some of the parties may bring or defend an action for the benefit of all. The petition in this case alleges that the Plaintiffs are members of the Sandlick Church and that the parties are numerous, and that they bring and prosecute this action for the benefit of all the members of the Sandlick Church. It may be contended by Appellees that this action could only be maintained by the Trustees of the Church, but the petition and amended petition in this case shows that this property was deeded to the Sandlick Church, and for the purpose of this trial that is taken as true, and it is absolutely true. It was not conveyed to trustees and the petition alleges that the Plaintiffs cannot state whether there is now any trustees of the Church or not, because of the fact that Appellees have the original record. We could state, however, from what we have now learned to be the actual facts of the case, that at the date of the filing of this petition there was no trustees of this Church because of the fact that the trustees which had been elected were Robert Blair, Peter Adkins and S. G. Fairchild, who as shown by this petition, were excluded. But the statutes of Kentucky, Section 318 says: "No charity shall be defeated by the want of a trustee or other person in whom the title may vest; but Courts of Equity may uphold the same by appointing trustees if there be none, or by taking control of the fund or property and directing its management and settling who is the beneficiary." Under that section this suit was brought for the purpose of asking this Court to appoint trustees and taking possession of the property and directing its management until the Court could determine who was the beneficiaries thereof, and who was entitled to the possession of same.

While as before stated, the Court cannot say who is or who is not the members of the Sandlick Church. It is a well settled principle of law that where a Church has been established, and that is an admitted fact here, if a portion of that Church deviates from the doctrine and principles of the Church so much so that thereby there comes a division in the Church, the parties who retain the original faith and principles are the owners of the property which has been purchased or erected by the Church. In other words, that each church member only has an interest in the property so long as he remains a member of the Church, and in the case of *Bennett v. Morgan* and the other cases cited therein, it was specifically held that where a portion of the Church abandon the original faith and doctrine of the Church and there comes a separation thereby, the portion of the Church which holds to the original doctrine are entitled to the property, be they in the majority or in the minority. So in this case the Court does not have to say whether the Appellants or Appellees are really the Sandlick Church. The only question that is before this Court is did the Appellees from the facts stated in this petition and amended petition abandon or leave the original doctrine which is stated in this petition and amended petition and take up and preach and advocate a different doctrine? If they did, they lost their interest in the church property whether they remained members of the Sandlick Church or whether they were formerly excluded or not. We therefore ask the Court to say that the Circuit Court has jurisdiction of this case and that the Appellants have the right to sue for the benefit of the whole Church, and have the Court to say who is entitled to the possession of the land and the house and the record of the Church.

Coming now to the discussion of the difference in the doctrine: The petition in this case as amended alleges that the original Sandlick Church from 1813 until near 1896, when the Defendants began preaching the doctrine which they now preach, believe in, and promulgate among the people, believed:

First—"That Christ died for the sins of the whole world; that by His death and resurrection it was made possible for every person to be saved who would come upon the terms of the gospel, and that every adult sane person was born into the world would be visited by the power of the Holy Ghost in some way so as to be shown that they were sinners; and if that person would truly repent of their sins that it would be possible for them to obtain a pardon and free remission of their sins, but that the pardon of their sins would come to them after repentance."

Second—"That said Articles of Faith as construed by the ministers of said Church supported the doctrine that the office and purpose of preaching the gospel was to the eddifying of the Christian people and of the warning of sinners of the dangers of living and dying in sin."

Third—"That said Church prior to the preaching of the doctrine of the said Robert Blair, Peter Adkins and Joseph Fairchild and their associates, believed that every person who was borned into the world was possessed at the date of their birth of an immortal or never dying soul which was to be saved or lost, and that while

said person was possessed of that immortal soul, the sins of that soul could be pardoned and it be a saved creature; that while the Adamic body of that person was not immortal nor spiritual, but at times might commit sins, but for which sins the influences of the immortal soul was in supremacy or overpowered the natural body, that persons would be sorry for their sin and that when a righteous person whose soul had been pardoned of its sin died, that the soul or immortal part of that person would be in a state of paradise and that at the day of the general resurrection that soul would be clothed with the body of immortality and ascend to heaven and enter into the glories of the Father and be eternally housed in the Kingdom of God. That said Church also believed that when the individual was warned of his sins and was exercised by the power of God or the Holy Ghost that he could see that he was a sinner and he then had the power to choose between good and evil, and that he had the power to reject the opportunity of repenting for his sins, or that he had power by the help of God, if he so desired, to repent of his sins and by true repentance he would receive a pardon and remission of his sins."

While it is alleged by the petition as amended that the doctrine preached and advocated by the Appellees was the "doctrine of special atonement, that is to say, that Christ did not die for the sins of the whole world, meaning the Adamic family, but that He only died for the sins of such portions of the Adamic family as was embraced in the covenant between Father and the Son before worlds was, and for all for whom He died and made an atonement would be finally saved in heaven. They further preached and promulgated the doctrine of absolute predestination of all things. That they also preached and taught that the persons of the Adamic family who were agitated or exercised by the spirit to the extent to show them that they were sinners and caused to repent of their sins, were not thereafter pardoned of their sins, but were merely shown that their sins were reconciled to God in the death of Christ. In other words, that they were already saved before repentance. That the Appellees also preached and promulgated the doctrine that it is not every person that is born into the world that possesses the immortal soul at the date of their birth, but that same, if at all, comes to them at a later date and that when said soul is agitated by the power of God or the Holy Ghost as hereinbefore described, as to show that person it is a sinner, that then that spiritual or immortal part of men partakes of the natural part of man and that the natural body partakes of the spiritual part so that they both unite and become one inseparable person. That at death that person goes into the grave and remains there, "both the spiritual and natural part until the day of the general resurrection." They further preach and promulgate the doctrine that there is never at any time anything whatever left in the power or choice of the individual by the exercise of which he could in any way change or cause a change in his condition or do anything to better his condition with reference to God or his soul's salvation. So the Court can see at a glance that the doctrine which had been preached, promulgated, and believed in, in the Sandlick Church from 1813 to the time that Defendants entered said Church and

commenced preaching in said Church, was as different from the doctrine preached and advocated by the Appellees, as daylight is from dark.

There is no need whatever for any comment upon this doctrine to show the variance between same, and the Court has held fully in the case of Bennett et al v. Morgan et al 112 Ky. 512, that where a portion of the religious body or Church leaves the doctrine upon which the Church was organized and founded, and believes in or preaches, promulgates or advocates a different doctrine, and becomes separated from that Church, the parties who stand by the old original doctrine are entitled to the Church property. This same principle of law has been fully upheld by the other cases cited from this Court and from the case of the True Reformed Dutch Church of Paramus v. Iserman, decided in New Jersey, reported in the 45th Atlantic 771, and in the case of Rose v. Christ, 44th Atlantic 240, 193 Pa. 13; Pence v. First Christian Church of McGregor 44 S. W. 534.

In view of these facts and authorities above cited we respectfully ask a reversal of the judgment in this case.

Cases cited:

- Ky. Stat. Carroll's Ed. 1909. Sec. 318.
- Bennett v. Morgan, 112 Ky., page 512.
- Gartier v. Penick, 5 Bush 110.
- Kinkead v. Nickey, 9th Bush 535.
- Watson v. Avery, 2d Bush 332.

D. D. FIELDS,
MONROE FIELDS.
Attorneys.

COURT OF APPEALS OF KENTUCKY

Hall, Etc.....	Appellants
vs. [BRIEF FOR APPELLES.	
Hall, Etc.....	Appellees

SUMMARY

1. The pleadings being most strongly construed against the pleader, we have the following conclusions:

(a) The Appellants were not members of the Church at the time of the alleged division.

(b) There was no settlement or attempted settlement by the Church having authority to settle same.

(c) The Appellees adopted their line of doctrine prior to 1896, and the Appellants becoming members since, they are estoppd to question same, as it is presumed they accepted the doctrines adhered to at the time by the Appellees.

- Wehmer v. Fokenga, 57 Neb. 510, 78 N. W. 28.
- Hadley, Etc., v. Whitelick, Etc., 89 Ind. 136.

2. So far as property rights are concerned, the amendment is a suit in ejectment, and a plain departure from the petition. Courts have power to appoint trustees even though a division existed in the Church.

Turpin v. Bagby, 138 No. 7.

3. When Appellants became members they did so upon condi-

tions of their acceptance of the religious doctrines of the Church at the time, and have no power to invoke the aid of a civil court unless their civil rights are involved.

34 Cyc. 1182 and authorities cited.

4. Courts have no power to revise ordinary acts of Church discipline or pass on controverted rights of membership.

Gewin v. Mt. Pilgrim Baptist Church, 51 So. 947.

Dismuke v. State, 58 So. 195.

Jackson v. Hopkins, 78 A. 4.

Westminister, Etc., v. Trustees, Etc., 142 App. D. 855.

Lewis v. Voliva, 154 Ill. Ap. 48.

Parish v. Murphy, 131 N. W. 946.

5. Equity will not lend its aid to enforce such a stale claim, even though the statute of limitation has not been pleaded.

Cecil's Com. v. Cecil, 149 Ky. 611.

Predestinarian Baptist, Etc., v. United Baptist, Etc., 139 Ky. 110.

Gatewood v. Gatewood, 24 R. 931.

East Jellico Coal Co. v. Hays, 133 Ky. 4.

Bristard v. Gates, 4 Dana 429.

Helm's Exor. v. Rogers, 81 Ky. 468.

6. Authorities cited:

34 Cyc. 1182.

Wehmer v. Fokenga, 57 Neb. 510.

Clark v. Brown, 108 S. W. 421.

Gibson v. Armstrong, 7 B. M. 515.

Masenaman v. Heitshousen, 69 N. W. 957.

Turpin v. Bagley, 138 No. 7.

Garrell v. Sproles, 49 Tex. S. W. 905; Tex. Ap. 387.

Bennett v. Morgan, 112 Ky. 512.

Bonacum v. Herington, 91 N. W. 88; 65 Neb. 831.

Hadley v. Whitelock, 89 Ind. 136.

Gewin v. Mt. Pilgrim Baptist Church, 51 So. 947.

Dismuke v. State, 58 So. 195 (Ala.)

Jackson v. Hopkins, 78 A. 4 (Md.)

Westminister, Etc., v. Trustees, 142 App. D. 855 (N. Y.)

Lewis v. Voliva, 154 Ill. Ap. 48 (Ill.)

Parish v. Murphy, 131 N. W. 946 (Neb.)

Predestinarian Baptist Church v. United Baptist Church,
139 Ky. 110.

Gatewood v. Gatewood, 24 R. 931.

East Jellico Coal Co. v. Hays 133, Ky. 5.

Bristard v. Gates, 4 Dana 429.

Helma's Exor. v. Rogers, 81 Ky. 568.

The Plaintiffs below allege they are members of the Primitive Baptist Church, and sue as individuals the Defendants Blair, Etc. It is alleged by them that about 19 years prior to the institution of the action that a division arose in the Church; that Elders Blair Etc., began to preach predestination at that time. There is no allegation in the original pleading or in the petition as amended that the Appellants or either of them were members of said Church at the time of the alleged division and construing the pleading most

strongly against the pleader, as a rule we will, therefore, presume they were not members, but for some reason instituted this action over matter which took place in the long ago.

It will be observed that there is no allegation that the Plaintiffs below took part in the division as alleged, or that a vote was taken upon any given question about which the division alleged to have arisen. Just why the Plaintiffs below conceived the notion to institute the action at present, we do not know, unless it be for the purpose of entering into a useless and vexatious law suit.

The Plaintiffs below failed to allege that the question of doctrine about which it is claimed a disagreement occurred, was ever settled or attempted to be settled by the Church having authority to do so. Baptist churches not only in Kentucky, but throughout the United States, hold what is known as a regular annual association, which represents sometimes counties and sometimes districts, embracing less territory than a county.

It is alleged that prior to 1896 that the Defendants below adopted a line of doctrine not agreeable to the Plaintiffs, but they do not say whether it was agreeable to them or not, or became obnoxious to them since 1896, and failing to allege that they were members of said Church in 1896, we presume that they were not, because undoubtedly they would not have waited so long to have instituted an action.

The petition does not ask a sale of the property as in the case of a divided Church, but to be adjudged the owner of the property and entitled to possession thereof.

First—The Plaintiffs below undertake to bottom this action purely upon the assertion that the Defendants are preaching and teaching doctrine contrary to the doctrine believed by the Plaintiffs. In other words they say that Blair and others began to preach and teach predestination of all things, and in so doing strayed from the original doctrine adopted by the Baptist Church. It will be observed that it is not alleged that the matter about which Appellants complain ever came up in the regular way for a vote, or that the Plaintiffs took part in the division or any discussion thereof, or cast their vote against the teaching of said doctrine with either a majority or minority. They do not show that the question was in any way ever presented to the general association having authority to settle such matters, and having failed to so allege, we assert that if a division existed it never was settled by a vote of the Church, or by the association having the power, and being the tribunal about which a matter of doctrine can be settled for the Church.

The Plaintiffs ask that the Court appoint trustees for the congregation, all of which the Court is without power to do. Assuming that the Plaintiffs below united with the Church since 1896, they must have known of the disagreement in the matters complained of. If they joined a wing of the division not agreeing with them in doctrinal questions, then they can not be heard to complain in Court. If, on the other hand, they joined the Church, being received by Elder Blair, Etc., prior to the year 1896, then the presumption would be that they accepted the doctrine adhered to

by said Elder Blair, Etc., and under the law would be estopped to complain.

Such question as the one presented for decision here has caused the churches and courts throughout the country to look up on such law suits in court as being hurtful to religious societies, not only in Kentucky, but throughout the country. The courts have only taken jurisdiction in such matters in cases of emergency only, and that, too, only where it becomes a legal question of the Court and not one of doctrinal principles about which the Church has the sole power to settle for themselves. This being purely a case of doctrinal principles that the Court is called upon to settle by a petition in equity, we affirm that the lower Court in sustaining the demurrer was right. Not only did the Plaintiffs fail to show authority or right, but the matters at issue being a question of doctrine which can be settled only by the governing authority of the Church, the Court reached the proper decision in sustaining the demurrer to the petition.

The Baptist Church settles its matters by the Church, or by an appeal to an association.

It is well known that the Baptist Church settles all its affairs either by the Church or an appeal to the association of which that Church is a part. The Church itself has original jurisdiction, and in case of dissatisfaction there is a right of appeal to the association.

In the absence of any allegation that an appeal was taken—the pleading being construed most strongly against the pleader, we presume no appeal was taken. The Plaintiffs having the right of appeal, and taking no appeal, the matter in controversy became *res adjudicata*, and over which no court has jurisdiction. The Church or congregation had a right to settle the question and having tried it, it was final until an appeal was taken, and there being no appeal, the Plaintiffs are estopped and can not even complain.

Wehmer v. Fokenga, 57 Neb. 510; 78 N. W. 28.

These doctrinal questions concern spiritual matters over which civil courts have no jurisdiction.

An ecclesiastical matter is one that concerns doctrine, creed, or form of worship of the Church or the adoption and enforcement within a religious association of needful laws and regulations for the government of membership, and the power of excluding from such association these deemed unworthy of membership by the legally constituted authorities of the Church; and all such matters are within the province of the Church, and their decisions will be respected by civil tribunals.

Clark v. Brown, 108 S. W. 421.

“When a person becomes as a member of the Church, he does so upon the condition of submission to its ecclesiastical jurisdiction, and however much he may be dissatisfied with the exercise of that jurisdiction he has no right to invoke the supervisory power of a civil court so long as none of his civil rights are involved.”

34 Cyc. 1182 and authorities cited.

Gibson v. Armstrong, 7 B. M. 515.

The court below had the "Articles of Faith" filed with the petition to see what it contained, and as there is a right of appeal in Baptist churches from the action of the member of the Church, and especially over the matters not in dispute, and none being taken as disclosed by the pleading, the court below committed no error in sustaining a demurrer to the petition as amended.

We take it that questions of this nature have not been up for judicial determination in Kentucky except in a few instances, we are therefore taking up the time of the honorable Court to call attention to authority, not only in Kentucky but in different sections of the country.

The Church government as pertaining to the Baptist, so far as we have been able to observe, is universal, that courts have no jurisdiction, and that doctrinal principles are controlled by their own organization.

The doctrinal question in Church division was up for decision in the Supreme Court in Nebraska in case of *Maseneman v. Heitshousen*, 65 N. W. 957; 50 Neb. 420, in which the Court used the following:

"When the right of a faction of a Church to control Church property and records depends mainly on matters or religious doctrine, the Courts shall not interfere."

In the case of *Turpin v. Bagly*, Mo. Supreme Court 138 Mo. 7; 39 S. W., said as follows:

"The government of the Baptist doctrine under the rules of the Baptist Church, a congregation has the sole power to appoint trustees and a legal right to the property of the organization is vested in them and can not be divested by a small minority, though they may alone of the members be governed by the rules and faith of the Baptist Church of the state."

In the state of Texas where the Baptists perhaps lead all others in point of membership, the Church authorities have held, and so have the courts, that some doctrine about which a congregation does not all agree is not a departure from the fundamental principles of that denomination at large.

Carrell v. Sproles, 49 Tex. S. W. 904; 20 Tex. Civil App. 387.

Even where members are excluded the action of the Church is binding on the Courts. This matter came up in Kentucky in the case of *Bennett v. Morgan*, 112 Ky. 512.

The Plaintiffs below having failed to allege that the matters about which they assert a division were ever up before the association for settlement undoubtedly would leave the case entirely without merit, especially when the matters concerned or appears to have happened in the days of Rip Van Winkle.

The Plaintiffs ask the Court to appoint trustees, and this is one of the reasons why this honorable Court is asked to reverse. We submit that Courts have no such appointive power. The action in so far as property rights are involved amounts to a suit in ejectment. Such matters as this have well been settled throughout the country, and no such action can be maintained even though a division existed in the Church, or where the congregation has violated the rules and purposes for which it was designed, the power

being alone in the congregation and Church authority to appoint trustees.

The Missouri Supreme Court discussed the question of the Baptist Church 138 No. 7.

The Civil Courts act on the authority that the ecclesiastical courts are best judges of merely ecclesiastical questions and of matters which concern the doctrine and discipline of the representative religious denominations to which they belong.

89 Ind. 136.

In other words, the decision of an ecclesiastical tribunal is conclusive where a local church is a member of the general organization having rules for the government and conduct for its adherents, congregation and officers, which orders and judgments of its general organization shall relate exclusively to church affairs and church government, are binding on the local congregation and can not be examined by the Court.

Bonacum v. Herrington, 91 N. W. 88; 65 Neb. 831.

When a person becomes a member of the Church he becomes so on the conditions of submission to its ecclesiastical jurisdiction, and however much they may be dissatisfied with the exercise of that power, he has no right to invoke the power of a civil court.

Hadley, Etc., v. Whitelick, Etc., 89 Ind. 136.

Courts have no power to revise ordinary acts of church discipline or pass on controverted rights of membership.

Gewin v. Mt. Pilgrim Baptist Church, 51 So. 947 (Ala.)

Dismuke v. State, 58 So. 195 (Ala.)

Jackson v. Hopkins, 78 A. 4 (Md.)

Westminister, Etc., v. Trustees, 142 App. Div. 855 (N. Y.)

Lewis v. Voliva, 154 Ill. Ap. 48 (Ill.)

Parish v. Murphy, 131 N. W. 946 (Neb.)

STALE CLAIM.

As heretofore stated the claim of the Appellants is stale, 19 years old, and no Court of Equity will lend its strong arm to enforce such an antedeluvian claim, even though the statute of limitation has not yet been pleaded.

One of the last utterances of this Court in the case of Cecil's Com. v. Cecil, 149 Ky. 611, is as follows:

"Equity will not enforce a stale claim, even in the absence of a plea of limitation, and especially is this true where the claim seems to be one of doubtful merit."

Predestinarian Baptist Church v. United Baptist Church, 139 Ky. 110.

Gatewood v. Gatewood, 24 R. 931.

East Jellico Coal Co. v. Hays, 133 Ky. 4.

Bristard v. Gates, 4 Dana 429.

Helm's Exor. v. Rogers, 81 Ky. 568.

ADDENTO.

Plaintiffs did not ask to amend.

In *Petry v. Petry*, 142 Ky. 571, the Court used the following language: "A petition may, of course, be amended after the Defendant has answered, but leave to file the amendment must first be obtained of the Court as provided by Section 134 Civil Code, which gives courts a broad discretion in the matter of allowing or

upon refusing amendments, with which this Court will not interfere unless convinced that there has been an abuse thereof."

The Plaintiff below had amended once and not asking for leave to amend again, it is presumed they did not desire to do so, and they cannot complain at this late date.

We respectfully ask an affirmance of the judgment of the Court below.

FRENCH HAWK,
WM. G. DEARING,
Attorneys for Appelles.

BRIEF FOR APPELLEES.

By Robert Blair.

SUMMARY.

1. The claim of the Plaintiffs, if they had any, is 19 years old, and is stale, and Courts will not enforce it.
Baptist Church v. United Baptist Church, 139 Ky. 110.
Gatewood v. Gatewood, 70 S. W. 284; 24 Ky. 131.
East Jellico Coal Co. v. Hays, 117 S. W. 309; 133 Ky. 611.
2. There being a division, it is presumed the number is known, and it is not such a suit as is contemplated to be brought under Section 25 of Civil Code.
Civil Code, Sec. 25.
3. The Plaintiffs have no right to ask the Court to appoint trustees.
Ky. Stat. (1909 Carroll's Ed.) Sec. 320.
Scott v. Curle, 48 Ky. 17.
Hadden v. Chrom, 47 Ky. 70.
Humphrey v. Burnside, 67 Ky. 215.
Bennett v. Morgan, 112 Ky. 512.
Iglehart, Etc., v. Rowe, 47 S. W. 575.
4. The Plaintiffs fail to state a cause of action.
 - (a) There is a failure to allege that there is any restriction in the deed, or that the donation was for any particular faith or creed.
 - (b) The statements in the petition are flat contradictions to the principles set forth in the Articles of Faith and the amended petition show contradictory statements.
4. Predestinarian Baptist Church v. United Baptist Church, 135 Ky. p. 110; S. W. 129, p. 546.
Gatewood v. Gatewood, 24 Ky. 931; 70 S. W. 284.
East Jellico Coal Co. v. Hays, 113 Ky. 611.
Civil Code, Sec. 25.
Ky. Stat. Carroll's Ed. 1909, Sec. 320 and 322.
Scott v. Curle, Etc., 48 Ky. 17.
Hadden, Etc., v. Chrom, Etc., 47 Ky. 70.
Humphrey, Etc., v. Burnside, Etc., 67 Ky. 215.
Iglehart v. Rowe, Etc., 47 S. W. 575, Etc.
Bennett v. Morgan, 112 Ky. 512.

COURT OF APPEALS OF KENTUCKY

Joe Hall, Etc. Appellants
 vs. [BRIEF FOR APPELLEES.
 James Hall, Etc. Appellees

STATEMENT.

This is an action brought by the Appellants, as individuals, to recover from the Appellees the possession of the Sandlick Regular Primitive Baptist Church House and lot of land described in Appellants' petition, and the church records of said Church, and to have the Court to appoint trustees for said Church, claiming that they have the right to maintain this action for themselves and all the members of said Church.

2. Claiming that they are the regular constituted Church; that there was a schism in said Church on the 16th day of May, 1896 over the doctrine of absolute predestination of all things and the eternal vital unity of God and His Church.

That these Appellees absented themselves from the Church and were excluded by S. C. Caudill and the part of the Church that identified themselves with him.

The Appellants filed their petition in this action in the Letcher Circuit Court on the 16th day of May, 1915, which is over 19 years after the schism in said Church as claimed by Appellants, and on the 10th day of August, 1915, the Appellees filed their general and special demurrer to the Appellants' petition and the then presiding Judge, Hon. J. M. Roberson, of Pikeville, Ky., who was not familiar with the Baptist doctrines and usages, overruled the demurrer and entered an order compelling these Appellees to bring into open Court the records of the Church for inspection by the Court, and the attorney for Appellants, which was done, and after inspection of the records of said Church the Appellants at another term of the Court and after the judges of the Court had changed, and after Hon. John F. Butler became Judge of said Court, they tendered into Court the amended petition which was filed and the Appellees still insisting upon their demurrer to the petition of Appellants as amended, and the Court advised sustained said demurrer and the Appellants failing to plead any further, the Court rendered the judgment herein from which the Appellees have prosecuted this appeal, claiming that the Court erred in sustaining the demurrer and dismissing their petition as amended.

THE APPELLANTS CLAIM

First—That they have the right to maintain this action and the Court has jurisdiction of the question arising in this action with reference to property rights sought to be determined.

Second—The petition as amended states a cause of action.

The Appellants' contention is that these two questions are the only questions to be decided.

The Appellees' contention is that the Court did not commit any error in sustaining Appellees' demurrer and dismissing Appellants' petition as amended, and that his judgment should be upheld and confirmed.

First—Because Appellants' claim, if any they ever had, is an old and stale one.

Second—Because the Appellants have no capacity to bring and maintain this action for and on behalf of themselves and other members of the Church.

Third—Because the Appellants' petition as amended does not state a cause of action.

Fourth—Because the Court has no jurisdiction of the subject of this action, and therefore, the Appellees ask that the judgment of the Lower Court be confirmed.

ARGUMENT.

The petition in this case was filed in the Letcher Circuit Court July 6, 1915, more than 19 years had elapsed after the schism in said Church as claimed by Appellants, before the filing of their petition herein, and the Appellants' petition as amended they used the following language:

The Plaintiffs say that on and about the 16th day of May, 1896, and at one of the regular Church meetings of the Sandlick Church, held and convened at the church house above described, the Defendants, Joseph Fairchild, Robert Blair, S. G. Fairchild, and one Peter Adkins, absented themselves from the Sandlick Church and left the house. (See Tr. P. 3.)

And in their amended petition they say:

The Plaintiffs say that by reason of the preaching of the doctrine preached and promulgated by the Defendants, there arose a schism or disagreement in said Church, and that on or about the 16th day of May, 1896, there was a division of said Church as described in the original petition. (See Tr. P. 11.)

The Appellants state in their original petition that

Shortly after the taking of said Church records by the said S. G. Fairchild, that said Fairchild and his co-defendants herein, obtained without the consent of the Plaintiffs or any of the members of the original Sandlick Church, Plaintiffs' said house and lot hereinbefore described. (See Tr. P. 3.)

Construing the pleading most strongly against the pleader, the phrase, "shortly afterwards," means immediately or not later than the next regular meeting time, after said division and in no event could the phrase be construed to mean a longer period than two months from the date of the said division. This then would make it 19 years and some days from the date of the said division in the said Church that the Appellants have stood by and looked upon and acquiesced in the possession of the Appellees of the said house and lots and records, before they asserted or attempted to assert their rights of action against the Appellees, and at this late day and hour they come with the flimsy pretext that they are the original Sandlick Church, with the right to maintain this action. Strange, indeed, it is, that if the Appellants are as they claim the legal constituted original Sandlick Primitive Baptist Church, that they will allow the time to pass away for the period of 19 years, and as the custom of the Regular Primitive Baptists at Sandlick to hold their regular meetings on the third Sunday in each month, which means that they would have met together from time of the division until the time of the filing of this suit, and held their regular sessions 228 times, and then come into a Court of Equity with

the flimsy pretext or claim that they do not know who the members of the said Church are, and claim that they did not know who the trustees of the said Church are, or who was at the date of the said division, which shows clearly to us, and we think to any fair-minded Chancellor, that they have slept on their rights in this action and that their claim, if any they ever had, is so stale that a Court of Equity will not at this late hour grant unto them the relief sought. The petition showing clearly on its face that more than the statutory limit has run against the Appellants, and the Court should affirm the judgment of the Lower Court. (See the case of *Predestinarian Baptist Church v. United Baptist Church*, Ky. Vol. 139, Page 119, Etc.; S. W. Vol. 129, Page 546.)

The Court said in discussing the case on the question of a stale claim:

It is true that limitation is not pleaded, but although limitation is not pleaded a Court of Equity will refuse to enforce a stale claim, especially where it is without merit in fact. In *Badger v. Badger*, Wall. 94, 17 L. Ed. 836, the United States Supreme Court thus stated the rule where there has been unreasonable delay in the assertion of a claim. In such cases Court of Equity acting upon their own inherent doctrine of discouraging for the peace of society antiquated demands, refused to interfere where there has been gross laches in prosecuting the claim or a long acquiescence in the assertion of adverse rights. Long acquiescence and laches by parties out of possession are productive of such hardship and injustice to others and can not be excused by showing some actual hinderance or impediment caused by the fraud or concealment of the parties in possession, which will appeal to the conscience of the Chancellor.

This rule was followed in the case of *Gatewood vs. Gatewood*, 70 S. W. P. 284, 24 Ky., Law Reporter 931, and *East Jellico Coal Co. v. Hays*, 117 S. W. 307, Ky. 133, P. 611.

Upon this alone we think that the Court below had the right and whose duty it was to sustain the demurrer to Appellants' petition and dismiss same, and we therefore ask this Court for the foregoing reasons to affirm the judgment of the Lower Court, and upon the consideration of same, if the Court should be of the opinion that the Court below erred in sustaining the demurrer on these grounds mentioned above, then we ask the Court to affirm the judgment of the Lower Court upon the second grounds of the Appellees' contention, that is, that the Appellants have no right to maintain this action or capacity to sue.

Second—Because the Appellants have no right to maintain this action, because they failed to state in their petition as amended that they or either of them were members of the original Sandlick Church of Regular Baptists on the 16th day of May, 1896, on the date of the said division or prior thereto. Consequently, if they were not members of the original Sandlick Church at the said date or prior thereto, they have no inherent right to said property.

The Appellants claim that they have a right to maintain this action under the Code of Practice, providing that where parties to a litigation are numerous and their interests are identical, that

some of the parties may bring or defend an action for the benefit of all. They say in their petition in this case that the members of said Church are numerous and containing a large membership, and they bring and prosecute this action for the benefit of all the members of the Sandlick Church. (See Civil Code of Practice, Sec. 25). In this section of the Civil Code it is provided that

If the question involves a common or general interest of many persons, or if the parties are numerous, and it is impracticable to bring all them before the Court within a reasonable time, one or more may sue or defend for the benefit of all.

We call the Court's attention to the fact that the question involved in this case is not one of a common or general interest of many persons, from the fact if there was a division in said Church, as is admitted by Appellants' petition as amended, and in that event the interest of each faction would not be general or common, but according to the members of each faction as of date of the division, and not as of date of the bringing of this action, and the Appellants would have no right to bring and prosecute this action against the Appellees (for the said Appellees) against themselves, for it is admitted by the petition of the Appellants that the Appellees were members of the original Sandlick Church on May 16, 1896.

We further call the Court's attention to the fact as stated in Section 25 of the Civil Code as heretofore referred to, which provides that if the parties be numerous and it is impracticable to bring all of them before the Court within a reasonable time, one or more may sue or defend for the benefit of all.

The Appellants nowhere state in their petition that the parties are numerous and that it is impracticable to bring all of them before the Court within a reasonable time. Therefore, Appellants must fail in their contention that they have a right to maintain this action for and in behalf of all the members of the Sandlick Church.

We call the attention of the Court to the fact that the petition of the Appellants as amended, nowhere shows that the Plaintiffs are trustees or was trustees of the said Sandlick Church of Regular Primitive Baptists on May 16, 1896, or at any other time; neither does it show that they were ever appointed as a committee by the Sandlick Church of Regular Primitive Baptists or anyone else to institute and prosecute this action, and now comes into a Court of Equity and ask the Court to appoint trustees for the Church, which right the Church or society alone have. (See Sec. 320 Ky. Statute, Carroll's Ed. 1909.)

The Appellants undertake to justify themselves under Kentucky Statute, 1909, Carrol's edition, Sec. 319, which in our opinion does not apply in this case, and again, strange indeed, it is if the Appellants are, as they claim, the Church, why not appoint trustees to hold the property. This within itself is a sufficient cause to show that they are acting only as individuals and not as a church or society.

See Ky. Statute 1909, Carrol's Ed., Sec. 320.

Scott v. Curle, Etc., 48 Ky., page 17, Etc., Civil Code of Practice, Sec. 25.

Hadden, Etc., v. Chrom, Etc., 47 Jy. page 70, Etc.

Humphrey, Etc., v. Burnside, Etc., 67 Ky., page 215, tc.

The above cited authorities, we think, shows clearly that the Appellants have no authority to maintain this action, and as the learned counsel for Appellants cited the case of Bennett, Etc., v. Morgan, Etc., we also call the Court's attention to same; that in that case and the notes to the case of Bennett v. Morgan shows conclusively that the Church alone or society has the power to appoint trustees, and they are the ones to maintain the action.

Iglehart, Etc., v. Rowe, Etc., S. W. 47, p. 575, Etc.

Now, coming to the question as to whether or not the Appellants' petition as amended states a cause of action.

The contention of Appellees is that the petition of Appellants as amended fails to state a cause of action against the Appellees, or either of them, the Appellants state in their petition that on the — day —, 18—, one John A Caudill, who was a member of and a believer of said Church, donated to the said Sandlick Church the lot of land in dispute herein.

We submit to the Court that the Appellants do not state nor allege in their petition or petition as amended, that the donation or deed to said property ever had any restriction in same, or that the donation or deed was to any particular belief, faith or creed; hence the title to said property vested in each of the members of the Sandlick Church in trust for the Church. This being the case when one of the members of the Church died the title to said property that was in the decedent descended and vested in their said heirs for the Church.

The Appellants in their amended petition state

That said Church was organized into a corporate body on the 13th day of August, 1915, and adopted its Articles of Faith, the same that are filed with the Defendant's answer and marked exhibit and filed in this Court on the 11th day of January, 1916(Plaintiffs now refer to said Articles of Faith as part of this amendment as fully and as completely as if copied at length herein; they say that after the adoption of said Articles of Faith that same was construed by the ministers of said Church and the members thereof as holding and supporting the following doctrines and faiths, to-wit:

First—That Christ died for the sins of the whole world, that by His death and resurrection it was made possible for every person to be saved who would come upon the terms of the gospel, and that every adult sane person who was born into the world would be visited with the power of the Holy Ghost in some way so as to be shown that they were sinners, and if that person would truly repent of their sins that it was possible for them to obtain a pardon and a free remission of their sins, but that the pardon of their sins would come to them after repentance.

Second—That said Articles of Faith as construed by the ministers of said Church supported the doctrine that the office and purpose of the preaching of the gospel was to the edifying of the Christian people and the warnings of sinners of the danger of living and dying in sin; they say this doctrine was

preached and promulgated by the ministers of said Church, and that there never was any other doctrine preached or promulgated by the ministers of said Church or believed in by the members of said Church until the Defendants, Robert Blair, Peter Adkins and Joe Fairchild, Jr., became members of said Church and were authorized by said Church or other churches to exercise a public gift in the way of preaching.

We submit to the Court that when the Articles of Faith are examined and read in connection with the Appellants' petition as amended, that the Court can clearly see that the statements in said petition is in flat contradiction with the principles set forth in said Articles of Faith; that the Court can not find any language in said Articles of Faith that can be construed as supporting the doctrine above set out in Appellants' petition as amended, but that the Articles of Faith itself, from beginning to end, taking it as a whole, can not be construed as supporting the doctrine above mentioned, and we submit to the Court that no where in said Articles of Faith is the death of Christ mentioned, neither is it mentioned in said Articles of Faith for whom Christ died; neither is there anything said in said Articles of Faith as to the sinner after he truly repents that he shall receive a free pardon and remission of their sins, and we here earnestly ask the Court to compare said Articles of Faith with the Appellants' petition as amended, and as same is made a part of the amended petition, and in so doing we think the Court will readily see where the Appellants' petition is within itself nothing but a bundle of contradictions.

We also call the Court's attention to the statement in Appellants' petition that this doctrine, and no other, was ever preached in said Church until the Defendants, Robert Blair, Etc., began to preach (See Tr. p. 9), also the statement as to what the Appellees preached, then at the close of the statement as to what the Appellees preached in their amended petition (See Tr. p. 10), in which they make the following statement:

They further state that the Sandlick Church prior to the preaching and advocacy of the doctrine of the said Robert Blair, Peter Adkins and Joseph Fairchilds, Jr., and their associates believe that every person who was born into the world was possessed at the date of their birth of an immortal and never dying soul which was to be saved or lost, and that while said person was possessed of that immortal soul the sins of that soul could be pardoned and it be a saved creature. (7 R. p. 10).

We submit to the Court that this is another contradiction of the statement made in the first paragraph of their amended petition from the fact that in that statement they say it is the person that is saved and receives a pardon and free remissions of their sins, and in this statement they assert that it is the immortal soul that is pardoned of its sins and is a saved creature, leaving the person as mentioned in the first statement out; hence, the doctrine of a non-resurrection of the bodies of the saints or any one else; this is also a contradiction of the Articles of Faith, shown by Item No. 9 of same, which reads as follows:

We believe in the resurrection of the dead and of a general

judgment where all will be judged according to the deeds done in the body.

This item shows conclusively that it is not the immortal soul that is to be saved or lost and consequently if it is what commits the sin and is pardoned of its sins and it is never-dying, there could be no such thing as a resurrection of the dead, and construing the Article of Faith as a whole with the petition as amended, it shows on its face that the Appellees are still adhearing and holding to the doctrine embraced in said Article of Faith as adopted by said Church, and that the Appellants are now trying to claim that they and the doctrine they advocated is embraced in the Articles of Faith, and that the Appellees have departed therefrom, and we submit to the Court that taking the petition as amended and construing the doctrine set forth in the Articles of Faith in connection with said petition and taking same as true, which must be done for the sake of this demurrer and trial of this cause.

We submit that Appellants have failed to state a cause of action against these Appellees, and we think that the Lower Court should be sustained in his ruling and the judgment affirmed; all of which we submit to this Court.

We also submit to the Court that the doctrine of absolute predestination of all things as charged in the Appellants' petition as amended is not a departure from the doctrine of the Regular Primitive Baptist Church such as affect the right to the title of property belonging to the Church. (See case of *Bennett v. Morgan*, 66 S. W. P. 287, Ky. 12, P. 512).

The Court said in that case that

The weight of testimony upon this question seems to be that these doctrines were taught, in substance, in churches of good standing in the associations of Primitive Baptist Church, and that there was no such unanimity upon the subject in the various authorities cited or in the teachings of those recognized as learned in the doctrine of the Church, as would justify us in holding that there had been, by either the majority or minority, a departure from the faith as understood at the time the Church property was conveyed.

Upon careful examination and comparing the Articles of Faith referred to by Appellants that the Court will find that the Court did not err in sustaining the Appellees' demurrer to Appellants' petition as amended, hence, upon this point we feel that the Appellants must fail.

We further submit to the Court that the doctrine of eternal vital unity of God and His Church is sustained by the Articles of Faith as shown in Item 1 of said Articles of Faith, which reads as follows:

We believe in only one true and living God and notwithstanding there are three that bear record in Heaven, the Father, the Son and the Holy Ghost, yet there is one in substance, equal in power and glory and can not be divided, neither in principles or practice and not liable to change.

Hence the doctrine of eternal vital unity of God and His Church.

The Appellees' contention is that the word "eternal" as used by the Appellants, means "without beginning or end," the word "vi-

tal" means "life" and that Christ, the eternal Son of God is the life of God's Church and that life and the Father are one and can not be divided, and that there never was a time but what the unity existed between the Son and the Father; hence, the eternal vital unity of God and His Church.

We submit to the Court that the Appellants' contention in their petition as amended is that there arose a schism or division in the Sandlick Church by Elder Joe Fairchild's declaration that he believed in the doctrine of absolute predestination of all things, and the eternal unity of God and His Church and after the Appellees absented themselves from said Church and organized themselves into another body, calling themselves the Sandlick Church, each of Appellees were by proper proceedings of the said Sandlick Church and its pastor, S. C. Caudill, excluded from the membership and never was thereafter restored according to the usages and practice of the Regular Primitive Baptist Church, that therefore any attempt of reconciliation as pleaded and relied upon by the Defendants was a nullity, not in conformity with the usages or decorum of said Church, and that by reason thereof the Defendants are not now, and have never been, since their exclusion as aforesaid, members of said Church.

We submit to the Court that the Appellants have no power or authority to exclude the Appellees from the membership of said Church, except it be done boni-fide for immoral conduct or immorality. (See Ky. Statute 1909, Carrol's Ed., Sec. 322.) In this case at bar the contention of Appellants is that they excluded the Appellees from the membership of said Church over the doctrine mentioned in their petition as amended, and not for immoral conduct or for immorality.

We submit to the Court that the statements in the closing paragraph of the Appellants' amended petition is a sufficient statement and admitted by Appellants that there was a reconciliation once made between the Appellants and the Appellees since the division occurred in the year 1896, and as the learned Counsel has said in their brief in this case on page one of said brief:

The Court has recognized fully their authority to pass upon the ownership of the property conveyed to any religious society organized as a Church, but have recognized fully their inability to pass upon the ecclesiastical question as to who is the Church members, and as to who is entitled to membership in a Church, that being a question left solely to the Church. These two questions have been so well settled by authorities that we deem it unnecessary to cite any authority with reference thereto.

In this we see that the learned Counsel for Appellants is trying to play the old game known among children as "hide and seek." In the first statement and allegations they seek to have the Court to believe that all the acts that they did at the date of the schism, and on May 16, 1896 and thereafter, can not be inquired into and passed upon by the Court; but when they find that after the schism in said Church that there was a reconciliation made and all their said differences having been settled, then they undertake in their amended petition to dodge the issue joined and admit as above

stated that there was a reconciliation made between the parties, but the same was not made according to the usage practice and decorum of the Regular Primitive Baptist Church, and therefore any reconciliation pleaded and relied upon by the Appellees is annulled, and now ask the Court at this late date to reach out the strong arm in their defense and pass upon the ecclesiastical rights of the Church and help them in their disturbance of the Church which has so long met at the altar in solemn prayer to the great God of the Universe, and while so engaged have so often realized the sweet communion of his Holy Spirit and the dripping of the Holy Sanctuary, and have been made to rejoice in the hope of their salvation and confuse the minds of the public and the neighborhood in general, surrounding the Holy Sanctuary where our fathers, mothers, brothers and sisters have so often met together in peace, love and quietude after the Appellants have stood by and have acquiesced in the peace and happiness of the Appellees in the quiet enjoyment of the long period of 19 years, more than the average life of members of the Primitive Baptist Church, until our beloved fathers, mothers, brothers and sisters that belonged to the Sandlick Church long since fallen asleep, and can not be present to tell to the Honorable Court the true report of the oppression in Egypt. Taking all these facts and circumstances into consideration and comparing the Plaintiff's petition as amended with the Articles of Faith, we think that any fair-minded Chancellor would arrive at the conclusion from start to finish that the object of Appellants is to frustrate and to confuse the minds of the Court and the people in general for no other purpose than to destroy the moral effect and the influence of the Church, thinking and realizing that they are very poor in this world's goods and are not able to pay lawyer fees, and the Clerk of the Court for copies of the record; that if they could ever get a judgment in the Lower Court in their behalf, that the Appellees never could pay for the record to be copied, consequently that would succeed in tearing up the Church and removing her from under her own vine and fig tree.

Upon the foregoing statements and authority cited, we submit this case into the hands of this Honorable Court for the decision, asking this Court to sustain his honor the Judge of the Letcher Circuit Court.

ROBERT BLAIR,
W. G. DEARING,
Attornes for Appelles.

COURT OF APPEALS OF KENTUCKY

Joe Hall, Etc. Appellants
vs. [REPLY BRIEF.
James Hall, Etc. Appellees

The Defendants in this action insist for an affirmance of this cause, first, because the Plaintiff's cause of action is stale and the courts will not enforce it. The authorities cited show that where there is no merit in a case, and is so shown by the petition, the statute of limitation will avail though not pleaded; but in this case we feel that the Court will not consider this a stale claim. It does show, however, that there was a division in the Church and the pe-

tion shows shortly afterwards the Defendants took possession of the property. This, while the allegation does not fix any time that they did take possession of the property, still the facts are that it was many years after the division before the Defendants and their associates ever held a church meeting or ever met at all in the church property, and we can't conceive of a Court that would hold that where John A. Caudill was pastor of the Church during all his life and then his son, Colonel Ben Caudill, and his son, S. C. Caudill, continued to stand as a pastor of the Church for a long time, and in fact S. C. Caudill, pastor when the division came, as shown by the petition and amended petition, and continued pastor of the Church for many years thereafter and until his death, and some of the children of John A. Caudill being the Plaintiffs in this action, that we contend that the Court will not hold that their claim is stale and take from them the property donated to them by their ancestor, John A. Caudill, and give it to a set of people who preaches an entirely different doctrine.

The second reason stated by the Appellees that this case is not such as contemplated by Section 25 of the Civil Code, and we insist that it is, and the attorney for the Appellees shows in his brief that Appellees were compelled to exhibit in court the Church records and complains of the action of the Court which shows that the Appellants did not have in their possession the full information about the Church at the time of filing their original petition. In fact, not at the time of filing their amended petition.

The third reason given is that the Plaintiffs who are Appellants, have no right to ask the Court to appoint trustees. This as well as the fourth reason has been full discussed in the original brief.

Item "A," relied upon by Appellees, we insist was not necessary to the maintenance of the action, that the deed should contain any restriction. It was a deed to the Sandlick Church, and when a portion of the Sandlick Church members abandoned the doctrine that had always been promulgated in that Church, the property rights vested in that portion of the Church which remained steadfast in the doctrine.

Item "B" is not available to Appellees because it is not a question of the Articles of Faith, and Courts are not supposed to all be ministers of the gospel, and therefore not competent to construe the Articles of Faith; but from the statements in the petition the Court can say whether or not the Appellees are preaching, advocating and promulgating the same doctrine that was advocated and believed in by the Sandlick Church at the time the deed was made under which the Church held the property in question.

Again, referring to the second grounds relied upon by Appellees for affirmance of the judgment, that is that the Appellants have no capacity to bring and maintain this action, we desire to call the Court's attention to one of the cases cited by Appellees. That is the case of *Humphrey v. Burnside*, 67 Ky. page 215, in which case certain parties sued a s trustees of said Church, but the Court, on page 222, used this language:

The action, as the caption of the petition shows, is presented in the names of Hamilton and Burnside, two of the original trustees, and of those since appointed in the manner herein

detailed, but as the last appointment were not recorded in the County Court and a greater number appointed than that prescribed by the statute, we may say the legal title to Church property remained in the three original trustees, but whether it is in them or in Appellees is not deemed material in this controversy for they (meaning Plaintiffs) are not, in fact, the title holders; they should be regarded as a committee suing by the appointment and on behalf of the congregation to protect it from the disturbance of others in the use and enjoyment of their property.

So it will be seen that where the persons suing are members of the Church, they have the right to maintain an action for the prosecution of the church property whether they be trustees, a committee, or even private members. There is on other point we wish to invite the Court's attention to, and that is that the Appellants in this case have at all times since the taking of the Church record by Appellees been at a great disadvantage in bringing or prosecuting a suit in the proper way and setting forth all the necessary facts, for without the records that in the possession of Appellees and without a full chance of inspecting those records, it was impossible for the Appellants to thoroughly state their cause of actions fully and as completely as they would have done if they had had access to the records of the Church; but Appellees may say that they were compelled to exhibit these records, but this Honorable Court can readily perceive that simply exhibiting the records for a casual inspection in the court room by lawyers who were not familiar with the proceedings of the Church, they would not be able to gather all the facts necessary to be stated in a pleading; but if permitted to proceed with the action and to take the deposition of the holders of the record and make a thorough inspection of it, they would be able to gather all the facts and be enabled to plead all the facts necessary to state before the Court for a fair and full hearing and enable the Court to properly determine these matters.

In the case of *Folf v. Lowe*, 80 S. W., page 221, — Ky., page —, this Court said with reference to the sustaining of a demurrer: "The Court should have sustained the demurrer to this paragraph, but should have given them leave to amend if they desired," and in the case of *Quinn v. Cincinnati, N. & C. Ry. Co.*, 97 S. W., page 379, — Ky., page —, where a demurrer was sustained on February 8, 1904, and amended petition filed December 12, 1905, out of turn time and on December 28, 1905, on Defendant's motion the amendment was stricken and on February 7, 1906, an order was entered striking the amended petition which was filed December 11, 1905, and the original petition was dismissed. The Court held that in that case that the amendment should have been filed by the Court at turn time, notwithstanding the long delay; but the case of *Eidson v. Tattum*, 1 Ky. Law Reporter, page 418, seems to be exactly on all force with the case at bar. There the Court had overruled demurrer to Plaintiffs' petition and the Plaintiff rested upon the belief that he had a good petition and afterwards the Court on a reconsideration sustained the demurrer and immediately dismissed the case and the Court in that case held that the

Plaintiff should have been given a reasonable time for amendment and in discussing that case the Court said:

The party should have opportunity to amend defective answer. The Court overruled demurrer to Appellants' answer filed at the first term after the institution of this suit. Subsequent to this action of the Court and during the same term and on motion of Appellee, the cause was submitted and judgment rendered in his favor. Notwithstanding the answer of Appellants, which had been determined by the Court, sufficient in law as a defense, held that if the Court had sustained the demurrer even then the Appellant would have been entitled to leave to amend his answer. But the Court, after deciding that Appellants' answer contained a defense to the action, against his objection and without any indication that the answer was insufficient, submitted the cause and rendered a judgment against him. Thus he was deprived of any opportunity to amend and forced into a trial with a delusive judgment in his favor upon the demurrer calculated to mislead from the discovery of the necessity of amending his answer. Such a proceeding cannot be tolerated. He was entitled to a continuance of the cause, as it did not stand for trial at that term if the demurrer to the answer was properly overruled. If the demurrer should have been sustained he was entitled to knowledge of that fact by an order of the Court and to an opportunity to amend his pleading after the Court by its ruling made manifest the necessity.

This is exactly the case in hand. Here the demurrer had been overruled, the order as shown by the record had been duly entered, and after that without even a suggestion from the Appellees as shown by this record, the Court upon his own motion or of his own volition, took up the case, went back and sustained the demurrer and dismissed the action all in one order, without giving the Appellants the slightest opportunity to amend. For this reason, if no other, the cause should be reversed and the parties allowed to properly present their case on its merits for a full and fair hearing by the Court, for which ruling we respectfully pray this Honorable Court.

D. D. FIELDS,
Attorney for Appellant.

JUDGMENT COURT OF APPEALS.

KENTUCKY COURT OF APPEALS

October 26, 1917.

Joe Hall, Etc. Appellants
vs. [APPEAL FROM LETCHER CIRCUIT COURT.
James M. Hall, Etc. Appellees

OPINION OF THE COURT BY CHIEF JUSTICE SETTLE AFFIRMING

This appeal brings to us for review a judgment of the Letcher Circuit Court which sustained a general demurrer filed by Appellees to Appellants' petition, as amended, and dismisses the action.

The action was brought to recover a lot and building thereon, situated near the mouth of Sandlick Creek on the North Fork of the Kentucky River in Letcher County, Kentucky, known as the Sandlick Church, the membership of which is a religious organization or sect of the Old Regular Primitive Baptist Faith; and also to recover certain Church records claimed to be illegally held by the Appellees. The Plaintiffs in the action were Appellants Joe Hall, W. G. Caudill, Sabrina Caudill, William Ramey and Polly Ann Craft, claiming to sue for themselves and all members of the Sandlick Church. The only persons named as Defendants were the Appellees, James M. Hall, Robert Blair, Peter Adkins, S. G. Fairchild, David Sergent and Joseph Fairchild.

It is, in substance, alleged in the petition, as amended, that the Sandlick Church was organized in the year 1915, and that a church building was in that year or shortly thereafter, erected upon the lot in question, which was donated to the Church by one John A. Caudill, a member thereof; that the lot was never deeded to the Church by Caudill, but some years after his death was conveyed to it by a deed from the Master Commissioner of the Letcher Circuit Court under a decree of that Court rendered in an action brought therein by the Church against the heirs-at-law of Caudill to obtain the title to the property; that soon after receiving the deed the congregation proceeded to and did build on the lot a more commodious church building, which has since continuously been occupied and used by the congregation as a house for religious worship.

It is also alleged in the petition that in 1896 a division arose among the members of the Sandlick Church growing out of the departure of some of them from the Articles of Faith and doctrine peculiar to the Old Regular Primitive Baptist Church, and which had been adopted by the Sandlick Church at its organization in 1815; the advocates of the new faith being led by the Appellees, Robert Blair, Joseph Fairchild, S. G. Fairchild and Peter Adkins; S. G. Fairchild then being clerk of the Sandlick Church and keeper of its records, and Robert Blair, Joseph Fairchild and Peter Adkins ministers in good standing of the Old Regular Primitive Baptist Church.

It appears from the further averments of the petition that the Appellees and other adherents of the alleged new faith, notwithstanding the taking of certain action by the members of the Church opposing them, whereby they were, as claimed, expelled from the Church, having since the beginning of the alleged schism in 1896 been, and are now, in possession of the lot, house of worship and records of the Sandlick Church.

It would serve no good purpose to set forth in the opinion the differences in faith and doctrine alleged by the petition to exist between the contending factions of the Sandlick Church, further than to say that the only substantial differences discoverable from the averments of the petition, is that the declaration of faith and doctrine they attribute to Appellees and their associates, seems to be slightly more Calvinistic than that of Appellants' declaration of faith and doctrine.

Waiving the question raised by Appellees' special demurrer,

whether on the showing made by the petition Appellants were authorized to maintain an action like this on behalf of the membership of the Sandlick Church other than themselves, we find abundant reason for holding, as did the Circuit Court, that the petition, even as amended, fails to state a cause of action.

First—It does not appear from its allegations whether Appellants and those for whom they sue, composing one of the factions resulting from the alleged division in the Church, constitute a majority of its membership. In *Poynter, Etc., v. Phelps, Etc.*, 129 Ky. 381, we held that the majority of a congregation of a religious denomination having a congregational form of church government like the Baptist Church, without any judicatory with revisory powers, is ordinarily entitled to rule.

Second—Even if the alleged division occurred in 1896, as alleged, it does not appear from the allegations of the petition that Appellants were then members of the Sandlick Church or involved in the division; and if they were not, but became members thereof after the occurrence of the division, as it is admitted by the petition that Appellees and those affiliated with them in belief have been in possession of the church property and in control of the affairs of the Church continuously since the division arose, under the rule that the pleading must be most strongly construed against the pleader, the inference is inevitable that they became members of the Church since the division; and if so, it must be taken for granted that they could not have become members without action upon the part of Appellees and those affiliated with them in the control of the affairs of the Church, or without subscribing to the faith and doctrine to which the latter hold. In such state of case they are estopped to sue for the recovery of the church property upon the ground that the faith and doctrine adhered to by Appellees is a departure from that to which the Sandlick Church at the time of its organization became committed. (34 Cyc. 1182.)

Third—The allegation of the petition that Appellees were dismissed from the Church, without setting forth the action taken, when by whom taken, or that such action was authorized by the laws of the Church, is insufficient to show that the dismissal was legally effected. If Appellees had, in fact, been excommunicated by the Sandlick Baptist Church, we would be without power to pass upon such action of the Church and could only consider it for the purpose of determining to what extent, if any, it could affect the disposition that should be made of the church property. As said in *Poynter, Etc., v. Phelps, Etc.*, supra:

The form of Government of the Baptist Church is congregational and, therefore, purely democratic. Each Church is a distinct organization independent of all others. There are no intermidate judicatories, or a judicatory of revisory powers in Baptist government. Consequently, the right of appeal does not exist. Every Baptist Church is, therefore, a law unto itself in matters ecclesiastical. While what are known as Baptist Associations, both district and state, exist, they possess neither appellate jurisdiction nor revisory power, but may advise the churches without in any way binding the latter to accept such advice. . . . With respect to church buildings

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and other property of independent self-governing congregations, such as Baptist, which are controled in the management of a majority of voices, if there be no specific trust involved, in case of controversy following a division and complete separation of one part of the congregation from the other, the civil courts will as a general rule give the property to the majority of the members, without inquiry as to whether there has been any change in the religious views of the congregation.

It is patent from the situation here presented by the record that Appellants have shown no right to the church property they seek to recover; and equally patent that the Circuit Court was without power to appoint trustees for the Sandlick Baptist Church, as prayed by them in the petition, even though a division were shown to exist in the Church. It is true that the question of whether the civil courts possess such power has never, so far as we are advised, been passed on in this jurisdiction, but it has been decided in other jurisdictions. In the case of *Turpin v. Bagley*, 138 Mo. 7, it was held that under the form of government and rules of the Baptist Church, only the congregation of such Church has the power to appoint trustees for a Church. To the same effect was the decision in *Correll v. Sproles*, 20 Texas Civil Appeals 387.

The same reasons that would prevent the recovery by Appellants of the church lot and building in this case, will prevent the recovery of the church records. The civil courts everywhere refuse to take cognizance of Church action with respect to the enforcement of Church discipline, or to pass upon questions that are purely ecclesiastical; the jurisdiction to determine such matters being in the Church judicatories alone. It follows from what has been said that the action of the Circuit Court in sustaining the general demurrer to the petition, as amended, and dismissing the action, was not an error.

Wherefore, the judgment is affirmed.

FIELDS & DAY, Whitesburg, Ky.
D. D. FIELDS, Whitesburg, Ky.
JOE HALL, Whitesburg, Ky.
For Appellants.

FRENCH HAWK, Whitesburg, Ky.
WM. G. DEARING, Whitesburg, Ky.
ROBERT BLAIR, Whitesburg, Ky.
For Appellees.

CORRESPONDENCE

Pikeville, Ky.,
12, 6, 1917.

Mr. Robert Blair,

My dear Cousin and Brother:

I had locked up my store and gone to my dwelling and finished reading through II Chronicles, going through both the Old and New Testament 54 times. I had on yesterday received a letter

from our Uncle W. G. Caudill, and as it happened brother Thomas McCown, was here in my store, I had sold to him a wagon, so I read to him the letter, also "The Glory of a Hardshell," which caused I and him both a laugh. Now these eight verses are all good, and not only good, but are true. I and brother Tom McCown went up on upper Chloey a short time ago and as we were driving along, it just rang in my ears "LOWE here and LOWE there" and I said to him when we got over where the meeting is going to be held, "I want you to have them sing this song." So when we got to the grave yard where the meeting was to be, just as I got my horse hitched, the brethren commenced to sing this song, and I said to brother McCowan, "Listen." And as the wind kept blowing, the meeting was moved up to a school house, and I had them sing the same song over again. Then Brother Joe Ramey opened the services, then Brother Isaac Justis, and another Justis, then Brother Whetsell Blair, then brother Riley Collins.

I never was at such a meeting in all my life. Riley Collins preached like Grandpa Caudill, Whetsell Blair like Uncle Sam, Thomas McCowan like Uncle Ben Caudill, Isaac Justis like Uncle James Dixon, Joe Ramey like Wid Caudill. I would sometimes weep, and sometimes laugh, and I could hardly hold myself on my seat.

Say, I have got your verses in my show case where everybody can see and read them.

Well, Cousin Rob, Uncle wrote me you got the Old Sandlick Church House, and as you are going to Manchester, I would love to buy the Church House from you, for several reasons, and I will here give them all. 1st. Grandpa Caudill was the one that gave the land, and I imagine helped to build the old Log House, I and my father laid the floor and made the stand, and I have seen my dear old Grandfather stand and hold to the stand to keep from falling so many times and that was one of the first houses I ever went to school in. 3d. It doesn't seem to me any other spot in Letcher County would seem to me like the Sandlick Church. 4th. If you will make the price right and I feel sure you will, I want it for Old Regular Baptist to preach in. Nothing on earth would do me more good, than to bring Brother Whetsel Blair, Brother Isaac Justis, Brothers Thomas and Keen McCowan and Steve McCowan, Brother Riley Collins, Uncle John Compton, Brother May, Brother Daniel Rhiner, and any of our brethren that doesn't preach for money. One reason I stayed out of the church so long was because they were divided. My Prayer to God, both night and day is for us all to get back together, and I never will stop while God lets me live. I know the Baptist are the people, and I know that they should all be together. They all preach from the same Bible, and the same God they all look to to fill them and why not come together? Old Uncle Winwright Adkins, Old Uncle Peter's brother, one of the last times I saw him said to me, "Join either one of them, it doesn't make any difference." And the last time I saw him, he said he was sure his brother Peter was at rest.

Well as it is late, I will close. Answer me at once. As ever,

Your Cousin and Brother,
J. D. Caudill

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Whitesburg, Ky.,
December 14th, 1917.

Mr. J. D. Caudill,
Pikeville, Ky.

My very dear Cousin and Brother:

I received your letter of the 6th, and was truly glad to hear from you, and to know that you have been reading the Testimony of our Lord, which reminds me of the scriptures where Philip met with the Eunuch riding in his chariot, and while he was reading, and said unto him, "Understandeth thou what thou readest?" The Eunuch said unto him, "How can I, except some man guide me." May the Lord guide you and enable you to understand the great mysteries of Godliness that is embraced in the Scriptures of Eternal Truth. The word "guide" in the sentence above quoted, is synonymous to the word lead, and David said "Lead me and I will run after thee." May you be found running after the Lord. I am also glad to know of the fact that you bear company with my dear yoke fellow in the ministry, Thomas McCowan, a man whom I esteem as one of our ablest ministers. I was also glad to know that you were blessed to meet and to hear such dear brethren as Joe Ramey, Isaac Justice and the other Justice, Whetsel Blair, W. R. Collins preach the gospel of Jesus Christ.

No man on earth would be better pleased than I to have Bro. W. R. Collins, Whetsel Blair, Thomas McCowan, Keen McCowan, Steve McCowan, Isaac Justice, J. E. Ramey and D. H. Riner visit us and preach in the Old Sandlick Church House, for I do not believe that God has ever graced this old earth with any greater or noble ministers of the gospel, and I am truly glad to say that each and every one of those mentioned in your letter have at all times stood identified with me in all my trials and conflicts in the churches.

Well, Cousin John, you said in your letter to me, that W. G. Caudill had written to you a letter, stating that I had got the Old Sandlick Church House. That is a mistake, it is not I, but the Sandlick Church, which have stood identified with all of the God blessed brethren that you mentioned in your letter that has won the Old Sandlick Church house and all of the records of the church, both in the lower Courts and the Court of Appeals. The members thereof, are not the owners of the house and lot, but are sojourners passing. The house and lot will still remain the property of those to whom it was donated, not as owners, but as worshippers of God in Spirit and in Truth, as we believe with all of our heart God by his holy spirit in the heart of our grand father, Elder John A. Caudill quickened and moved him to donate said lot of land, not to his children and grand children, but wholly to the Lord, that his children in obedience and not in disobedience, should meet on said holy ground and worship the living and true God in spirit, thus we take it, that when he donated the land, that he did it for God's children, and not his children and grandchildren after the flesh, should have and control it.

I must say that I was surprised somewhat, when I read your reasons for wanting to buy the Church House, and must say with

much astonishment and amazement, when I read that part of your letter that asked me to price the Church House, from the fact I would feel like I was a Judas to do so, and would as lieve be guilty of the betrayal of the son of man, like Judas did, should I attempt to sell the holy ground and the holy sanctuary where our God Blessed brethren and sisters in the Lord have so often met together and sat under the shadow of the great Rock, and been made to receive of the drippings of the holy sanctuary and been made to rejoice in the hope of their salvation. Feeling that I have received a charge, and taken an oath at the hand of the great Jehovah, God, as one of the armor bearers in this great conflict,

While I was reading your letter, I was amazed and made to wonder whether or not the late Elder John A. Caudill was my grand father, and the grandfather of my dear wife, Rachel Blair, or Lizzie Lewis, or S. G. Fairchild, and wondered whether or not we, too, in time passed, had sat under the sound of his voice and seen him hold to the stand to keep from falling, and many others of his grandchildren who have stood identified with us in all this conflict, so my dear brother, I must say that I fear Him that made the dry land and the sea, and for that reason I cannot afford to price the Church House as you suggested. It is true that my home is in Manchester, Ky., but my membership is at the Sandlick Church, and will remain there as long as my good brethren and sisters can afford to bear with and fellowship such a one as I. I consider the distance no further for me from Manchester, Ky., than it was for our dear Uncle B. E. Caudill, and especially not so far as it was for him when he lived in North Carolina. Little things like distance should never get in our way to prevent us from meeting together in the house of God.

Now, Brother John, you said you wanted us all to get together, we would be glad if it was the Lord's will that he would move all of the barriers out of the way of his children that desire to have their fellowship at the Sandlick Church, and when it pleases God to forgive those that have rebelled against the government of the church and makes them willing to lay aside all prejudice, acknowledge their faults and be willing to be ruled by the government of the Church and subscribe to the Articles of Faith, and forsake all idle tales, and come home and acknowledge the Great I Am as the head of the Church, ruler, governor and contoler of same, and if we be the ones that have rebelled and transgressed the laws of God, or in other words, as Akan of old, who coveted the golden wedge and Babylonian garment, and have hid same in our tent, and the others are the true Israelites, they could not war against their enemies and be successful so long as we keep hid in our tent the golden wedge and Babylonian garment, although we be children of God or Israelites as was Akan, and likewise the other side.

But, when all the golden wedges and Babylonian garments, such as natural fleshly relationship and politics, prejudices and self-willed and fleshly lust are laid aside from God's people, then we can dwell in the land given to us in peace and quietness, and I want to say now in conclusion, that may grace, mercy and truth enable all of those of God's children who desire to live together in

peace and love and meet at the Old Sandlick Church House to worship God in Spirit and in Truth, to forsake all their idols and turn to the living and true God, and forsake house and land, wife and children. Yea, even their own life for the great cause of our Master.

This letter is written in the kindest of feelings and realizing our eternal relationship, as well as our natural relationship, so come at any time and bring any of the God blessed brethren that you mentioned in your letter to preach in the Old Sandlick Church House, and remember the sacredness thereof.

Your Cousin and Brother,
Robert Blair.

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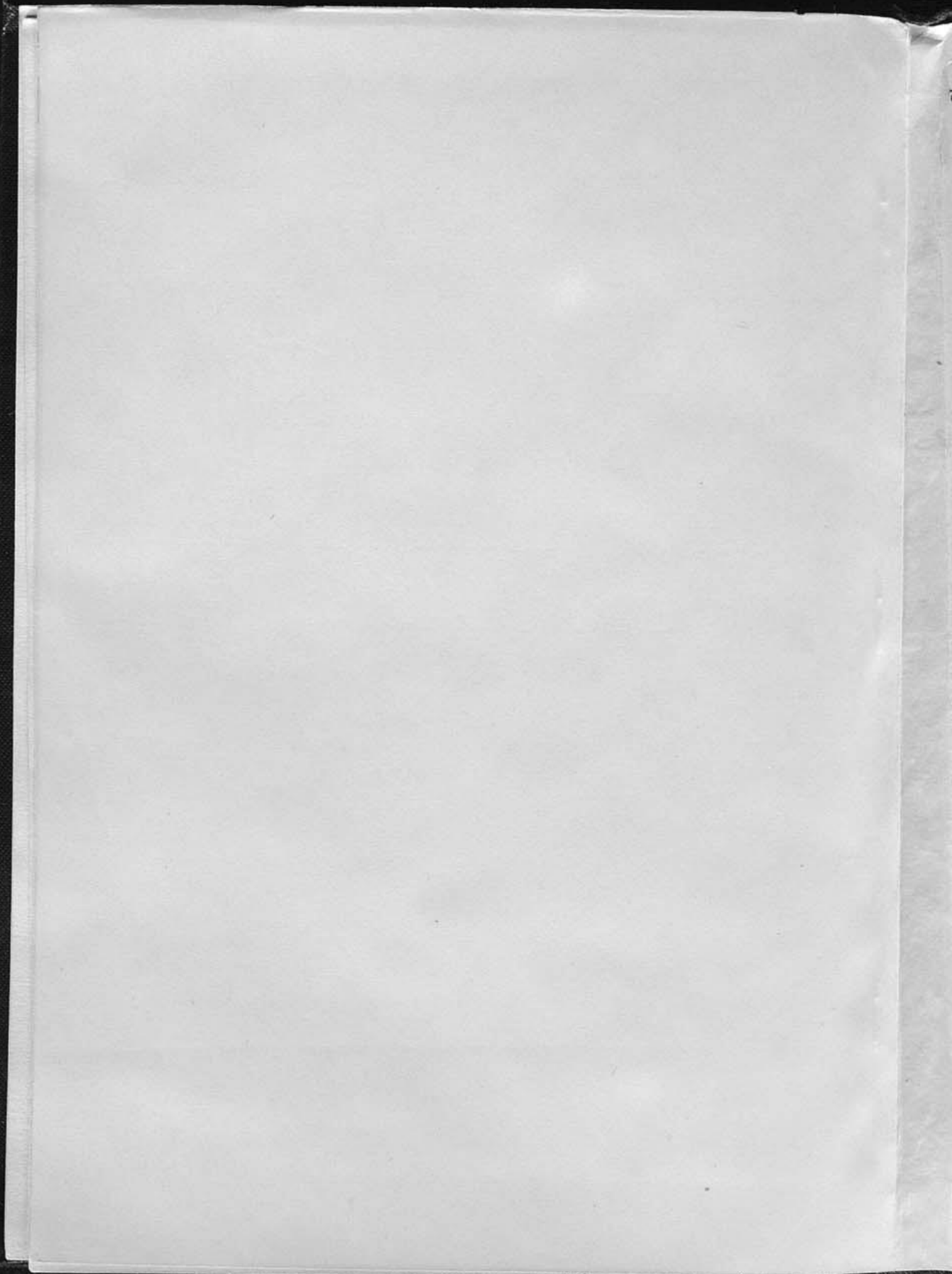
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...of the Old South Church, New York, N.Y. ...
...to the Old South Church, New York, N.Y. ...
...and the Old South Church, New York, N.Y. ...
...the Old South Church, New York, N.Y. ...

This letter is written in the spirit of freedom and ...
...as well as our mutual relationship ...
...of the Old South Church, New York, N.Y. ...
...of the Old South Church, New York, N.Y. ...

Yours truly,
Robert Smith





24th July 1930.

