

Abstract 19 (Cont'd)

Chemical Products

carried it to the chemical works of Sloan, Anderson and Company, also of Cleveland. The acid was hauled in a lead-lined tank mounted on a wagon frame.

In November 1867 one of Cartwright's teamsters was hauling a load of acid along Broadway, formerly called Pittsburgh Street, when the tank sprung a leak. Charles Gates claimed that the driver of his team, being entirely unaware of the nature of the leaking liquid, allowed his team to follow directly behind the acid tank.

Cartwright claimed the leak was of no consequence. However when his driver recognized that Gates' teamster had permitted one of his horses to step into a pool formed by the leaking acid, he immediately warned Gates' teamster to bathe the horse's feet in cold water as soon as possible.

Despite prompt treatment the horse became permanently disabled. Cartwright insisted it was Gates' careless treatment that induced the lameness.

Gates estimated his damages at \$250 and filed suit for this amount in the court of Justice of the Peace Wells Porter on June 27, 1868. On July 15, 1868 he was awarded the sum requested and \$11.50 in costs. Cartwright appealed to the Court of Common Pleas on August 19, 1868. The jury in the case awarded Gates \$200.

Abstract 20

Churches & Sects, Evangelical

CP 1262 - 34:230; May 6, 1868; May Term, 1869.

JOHN F. BORGES, MICHAEL BECKER, AUGUSTUS SCHROEDER, HENRY SCHNEIDER, ANDREW KNAUS vs. CHARLES WAHEL, JOHN C. WAGNER, HENRY KELLER, JACOB BECKER, HENRY SHMIDT, NICHOLAS HEISEL, FREDERICK BURKHARDT, H. W. LEUTKEMEYER; Injunction and Relief.

The German Protestant Evangelical Church of Cleveland was chartered by an act of the General Assembly of Ohio on March 19, 1839. By virtue of this act the church had the right to acquire real estate to the following extent: a house of public worship, with grounds not exceeding an acre; a burial ground; a parsonage not exceeding \$5,000 in value; and other property not exceeding the value of \$1,000 in any one year. Such property was to be held for the purpose of supporting public worship and such institutions of learning and charity as were connected with the church.

The church's by-laws provided that the church could elect officers and make rules for the government of its affairs. All pew-holders and members of the congregation had the right to vote at all meetings and majority rule prevailed. It was provided however that as long as any member objected the corporation could take no steps to dissolve the church. The active management of the church was vested in a board of twelve trustees, subject to the control of the membership.

The congregation acquired from Levi Johnson a piece of land fronting 50 feet on Erie Street at the corner of Hamilton Street, and it built a church there in 1841. The property was valued at \$12,000. In 1861 William Schmidt became pastor and M. Bierman became director of the church school, which had an enrollment of 30 pupils.



Abstract 20 (Cont'd)

Churches & Sects, Evangelical

In March 1866 the church bought property fronting 135 feet on Superior Street and 170 on Dodge Street from George C. Dodge. The property, on which \$4,800 was still due, was valued at \$8,100. The church erected a \$6,000 school building on the lot. The investment in the lot, building and fixtures totaled \$9,300. The church's gross investment in real estate was \$21,300.

The school offered an education in German and English, and gave promise of being self sustaining. Tuition was 50 cents a month.

The trustees of the church at this time were Charles Wabel, president, John F. Borges, Michael Becker, Augustus Schroeder, Henry Schneider, Andrew Knaus, John C. Wagner, Henry Keller, Jacob Becker, Henry Schmidt, Nicholas Heisel and Frederick Burkhardt. Borges and his supporters asserted that Wabel and his followers, at a regular monthly meeting on April 1, 1868 persuaded the trustees to call a general meeting of all church members on April 19 for the purpose of discussing the financial condition of the church. Actually, Borges charged, Wabel called the meeting to effect a resolution, predetermined among his followers, to sell the church property. At the meeting of April 19 a resolution was passed to sell the church property. Over Borges' protest that they delay the matter until a greater attendance could be had, a committee was appointed to examine the proposal and report within two weeks.

Philip J. Provo, a member of the church, deposed that the pastor solicited him in the matter of selling the church property and that he called on other church members for the same purpose. Moreover the pastor went about soliciting persons to purchase pews so that they might vote for the sale.

On May 3, 1868 another church meeting was held. Borges accused Wabel of packing the meeting with 30 to 40 non-members who voted illegally and thus sustained the proposals of the April meeting. Wabel, Keller, Heisel and H. W. Leutkemeyer were elected as a committee empowered to conduct the sale and buy other property. Borges charged the procedure was unconstitutional.

Provo deposed he was present at the meeting of May 3 and that the first point of business was the proposal to sell the church. Provo asserted that W. D. Jeuring and Jacob Wagner insisted that everyone vote strictly in accordance with the constitution, but Wabel, the chairman, paid no attention. Henry Schmidt, a member of the church, deposed there was no unconstitutional procedure but admitted that he never had signed the constitution. He said that as a member he had never been required to conform with the written constitution. He merely paid dues.

Borges contended that the constitution provided that no member of less than six months' standing could vote. Rev. Schmidt deposed that he was aware of the existence of printed forms of the church constitution but that these regulations had fallen into disuse. He claimed that all adult males who subscribed to the annual expenses of the church were permitted to vote and that this rule had been in practice as long as he had been minister. Borges admitted that the regulations of the church permitted all persons who rented pews to become members with voting rights, but insisted that these provisions were circumscribed by the constitutional regulation requiring six months' membership.



Abstract 20 (Cont'd)

Churches & Sects, Evangelical

The following Cleveland residents, who were members of the church, voted against the resolution to sell the church property: George Walter, Phillip Stanton, John Ripp, John Albetter, August Matthew, Adam Diehl, Gottfried Ackert, Daniel Scheuer, George McKirling, Henry Mitchell, William Davis, Michael Steinacker, Ernest Rodeman, Lawrence Mueller, Frederick A. Brand, Daniel Brummer, George Eisele, Christian Nobel, Otto Schmidt, Joseph Kroger and Christian Rimp.

**Michael Becker**, W. D. Jeuring, George Engel, Andrew Knaus, Henry Schneider, Augustus Schroeder, Philip Auman and Jacob Wagner deposed they recognized and heard Borges uphold the six-month membership voting rule.

The committee then purchased the property of the Baptist Church on the corner of Ohio and Erie Streets. Borges charged the committee intended to found a new religious society of the old denomination, and contended the Baptist Church property was unsuitable for the purposes of the congregation. Keller maintained the new church property would serve better than the old. Wabel asserted he received such a good offer that the committee bought the church and held it for the congregation; the committee would take it for its own membership if the congregation as a whole did not want it. Wabel claimed that the attendance in the new church would be greater than in the old.

Wabel said that the old church adjoined the large stables of the express companies and during the summer months they could not get proper ventilation. Moreover the debt was burdensome. Borges contended that one-half the cost of the school lot had been paid and the school building debt had been paid off entirely. The income from the pew rentals was \$400, which was more than the church expense. The school had enrolled 140 to 150 students at a tuition of \$1 a month, due to the efficiency of Bierman; Wabel's opposition had reduced the enrollment to 50, Borges asserted.

On May 6, 1868 Borges filed suit in the Court of Common Pleas to restrain Wabel from selling the property. The injunction was allowed by the court. The case was later dismissed, each party paying his own costs.

On August 30, 1869 Michael Becker presented Wabel with a petition, signed by 40 members, for a general meeting of the congregation for the following September 13. The meeting was held, 135 members attending. A resolution rescinding the proposals adopted for the sale of the church property was passed unanimously. Two weeks later another meeting of the congregation was held at which 107 attended, and John Wagner, Heisel and Keller were discharged as trustees. Jacob Wagner, Jeuring, C. Lindeman and Philip Auman were elected in their place.

Abstract 21

Coal, Prices

CP 355 - 34:143; Apr. 21, 1868; Nov. Term, 1868.

ARTHUR F. BARTGES vs. LEMUEL and WILLIAM CRAWFORD, d.b.a. CRAWFORD AND SON; Money Only.

Lemuel and William Crawford, father and son, operated a coal mine in Wayne County, Ohio, under the firm name of Crawford and Son.