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C. A. Briggs, Heresy case.

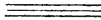
THE

PRESBYTERIAN CHURCH

IN THE UNITED STATES OF AMERICA,

AGAINST

THE REV. CHARLES A. BRIGGS, D.D.

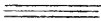


NOTICE OF APPEAL

AND

APPEAL TO THE GENERAL ASSEMBLY FROM THE DECISION
AND FINAL JUDGMENT OF THE PRESBYTERY OF
NEW YORK, RENDERED JANUARY 9TH,

1893.



The Presbyterian Church in the United States of America,

Represented by

GEORGE W. F. BIRCH, D.D.,
JOSEPH J. LAMPE, D.D.,
ROBERT F. SAMPLE, D.D.,
JOHN J. STEVENSON,
JOHN J. MCCOOK,

PROSECUTING
COMMITTEE,

Appellant.



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JOHN J. McCOOK, }
PROSECUTING
COMMITTEE,
Appellant.

JOHN C. FANKIN CO., PRINTERS.
24 CORTLANDT ST., NEW YORK.

NEW YORK, January 18th, 1893.

To the REV. SAMUEL D. ALEXANDER, D. D.,
Stated Clerk of the Presbytery of New York.

DEAR SIR:

The Presbyterian Church in the United States of America, represented by the undersigned Prosecuting Committee, in the case of the Presbyterian Church in the United States of America, against the Rev. Charles A. Briggs, D.D., hereby gives written notice of appeal, with specifications of the errors alleged, in the said case, to the General Assembly of the Presbyterian Church in the United States of America, to meet at Washington, D. C., on the third Thursday of May, A. D. 1893, from the decision and final judgment of the Presbytery of New York, sitting in a judicial capacity, given on the ninth day of January, 1893. The grounds of this appeal and the specifications of the errors alleged, are hereto attached and made a part of this notice.

The Presbyterian Church in the United States of America, represented by

GEORGE W. F. BIRCH,	} Prosecuting Committee, <i>Appellant.</i>
JOSEPH J. LAMPE,	
ROBERT F. SAMPLE,	
JOHN J. STEVENSON,	
JOHN J. MCCOOK,	

THE PRESBYTERIAN CHURCH IN THE UNITED STATES OF
AMERICA

against

THE REV. CHARLES A. BRIGGS, D. D.

APPEAL TO THE GENERAL ASSEMBLY.

NEW YORK, January 18th, 1893.

TO THE VENERABLE THE GENERAL ASSEMBLY OF THE
PRESBYTERIAN CHURCH IN THE UNITED STATES OF
AMERICA, GREETING :

The Presbyterian Church in the United States of America, represented by the undersigned Prosecuting Committee, in the case of the said Presbyterian Church against the Rev. Charles A. Briggs, D. D., presents the following Appeal from the final judgment in this case, rendered by the Presbytery of New York on the ninth day of January, 1893, with the grounds therefor, and the specifications of the errors alleged. Believing that the trial of the said Dr. Briggs is one of the most important in the history of the Presbyterian Church, by reason of the dangerous errors alleged to be contained in the Address of the said Dr. Briggs at his inauguration as Professor of Biblical Theology in Union Theological Seminary, delivered on the 20th day of January, 1891, upon which Inaugural Address charges and specifications were tabled and prosecution, in compliance with Sections 10 and 11 of the Book of Discipline, was initiated by the Presbytery of New York in the name of the Presbyterian Church in the United States of America; and believing that the distinct and definite condemnation of those alleged errors, by the Supreme Judicatory of the said Presbyterian Church, is necessary in order to prevent their spread and influence in the denomination; and, while having the highest respect for the Synod of New York, believing that a special responsibility rests upon the General Assembly

which is charged with the duty of deciding in all controversies respecting doctrine; of reproof, warning or bearing testimony against error in doctrine in any Church, Presbytery or Synod, and in cases that affect or concern the promotion of truth and holiness through all the Churches under its care, as set forth in Chapter XII., Sections IV. and V., of the Form of Government; and in view of the desirableness of the speediest settlement of this most important case, do hereby appeal to and request your Venerable Body to enter immediately upon the consideration and judicial investigation of the appeal hereby presented, to issue the case, and to finally determine the important questions involved, so as to secure the purity and the peace of the Church at the earliest possible day.

In the further prosecution of the case on the part of the said Presbyterian Church, the Appellant, represented by the said Prosecuting Committee, respectfully sets forth:

That on the thirteenth day of April, A. D. 1891, the Presbytery of New York appointed a Committee to consider the Inaugural Address of the Rev. Charles A. Briggs, D. D., in its relation to the Confession of Faith, and that on May eleventh, A. D. 1891, the said Committee presented to said Presbytery a report which was accepted, and its recommendation, "that the Presbytery enter at once upon the judicial investigation of the case," was adopted by the said Presbytery, and thereupon it was "*Resolved*, That a Committee be appointed to arrange and prepare the necessary proceedings appropriate in the case of Dr. Briggs"; and the Rev. G. W. F. Birch, D. D., Rev. Joseph J. Lampe, D. D., Rev. Robert F. Sample, D. D., and Ruling Elders John J. Stevenson and John J. McCook were appointed such Committee in conformity with the provisions of Section 11 of the Book of Discipline.

That after the initiation of the prosecution by the said Judicatory, the Presbytery of New York, as above recited, the said Prosecuting Committee entered upon its duties.

That as said prosecution was initiated by a Judicatory and not by individual prosecutors, in compliance with the provisions of Section 10 of the Book of Discipline, the Presbyterian Church in the United States of America became the prosecutor, and an original party in the case, and was represented by the said Prosecuting Committee, which said Committee, under Section 11 of the Book of Discipline, was charged with the duty of conducting the prosecution in all its stages in whatever judicatory, until the final issue be reached.

That at the meeting of said Presbytery, held on the fifth day of October, A. D. 1891, the said Prosecuting Committee presented charges and specifications in the case of the Presbyterian Church in the United States of America against the Rev. Charles A. Briggs, D. D., which were read in the presence of the Judicatory, and were then served by the Moderator upon the said Rev. Charles A. Briggs, D. D., together with a citation, citing him to appear and plead to the said charges and specifications at a meeting of the said Presbytery, to be held on November fourth, A. D. 1891.

That after said charges and specifications had been presented to the said Presbytery and had been read, the Presbytery entertained a motion made by the Rev. George Alexander, D. D., to arrest the judicial proceedings and to discharge the Prosecuting Committee from further consideration of the case, as follows :

“*Whereas*, the Presbytery of New York, at its meeting in May last, on account of utterances contained in an inaugural address delivered January 20th, 1891, appointed a Committee to formulate charges against the author of that address, Rev. Charles A. Briggs, D. D., and *whereas*, since that action was taken, the accused has supplemented those utterances by responding to certain categorical questions. * * *

“*Therefore, Resolved*, that Presbytery, without pronouncing on the sufficiency of these later declarations to cover all the points concerning which the accused has been called in question, with hearty appreciation

of the faithful labors of the Committee, deems it expedient to arrest the judicial proceedings at this point, and hereby discharges the Committee from further consideration of the case."

On the aforesaid motion to dismiss the case, as expressed specifically in the words "to arrest the judicial proceedings" and "hereby discharges the Committee from further consideration of the case," the Presbytery by a yeay and nay vote refused to adopt the above resolution and to dismiss the case.

That on the said fifth day of October, A. D. 1891, the said Presbytery adjourned to meet on the fourth day of November, A. D. 1891, the day upon which the said citation was made returnable, and that at said meeting on the fourth day of November, A. D. 1891, the said Presbytery was charged as a Judicatory in accordance with Rule XL of General Rules for Judicatories, and thereupon the said Presbytery proceeded in the case of the Presbyterian Church in the United States of America against the Rev. Charles A. Briggs, D. D., and the said Dr. Briggs then presented a paper purporting to be objections to the sufficiency of the said charges and specifications in form and legal effect; that said paper was largely an answer to said charges or an argument upon the merits of the case, and was denominated by the said Dr. Briggs himself, a "Response to the Charges and Specifications submitted to the Presbytery of New York, by Prof. Charles Augustus Briggs, D. D.," and that the said Presbytery thereupon permitted members of the said Presbytery to discuss the merits of the main question on behalf of the accused before and without permitting the Prosecuting Committee to be heard on the merits of the case.

That a question as to the status of the Prosecuting Committee was raised, and the Moderator decided that the Committee was properly a Committee of Prosecution in view of the previous action of the Presbytery, and was in the house as an original party under the provisions of Section 10 of the Book of Discipline. That an appeal was taken from the decision of the Moderator, the ques-

tion was divided, and the Moderator was sustained in the point, that the Committee was in the house as a properly appointed Committee of Prosecution, and also sustained in the point that the Committee, as representing the Presbyterian Church in the United States of America, was an original party in the case.

That on said November fourth, A. D. 1891, the said Presbytery, after fully hearing Dr. Briggs' "Response to the Charges and Specifications," and without permitting the Prosecuting Committee to be heard on the merits of the case, upon the motion of the Rev. Henry Van Dyke, D. D., made and entered on its records its decision and final judgment dismissing the said case in the following words, to wit:

"*Resolved*, that the Presbytery of New York, having listened to the paper of the Rev. Charles A. Briggs, D.D., in the case of the Presbyterian Church in the United States of America against him as to the sufficiency of the charges and specifications in form and legal effect; and without approving of the positions stated in his Inaugural Address, at the same time desiring earnestly the peace and quiet of the Church, and in view of the declarations made by Dr. Briggs touching his loyalty to the Holy Scriptures and the Westminster Standards, and of his disclaimers of interpretations put on some of his words, deems it best to dismiss the case, and hereby does so dismiss it."

From the aforesaid action of the said Presbytery of New York on the said fourth day of November, A.D. 1891, in dismissing the case, the Prosecuting Committee took an appeal in the name and on behalf of the said Presbyterian Church to the General Assembly of the Presbyterian Church in the United States of America, in accordance with the provisions of Sections 94 to 102, inclusive, of the Book of Discipline.

The said Appeal was made upon six different grounds, supported by twenty-five specifications of error, and together with the written notice of Appeal required by Section 96 of the Book of Discipline, was given to the

Stated Clerk of the Presbytery of New York, and lodged with the Stated Clerk of the General Assembly, within the time required by Sections 96 and 97 of the Book of Discipline.

The Appeal, the Record and other documents in the case were referred to the Judicial Committee of the General Assembly of 1892 at Portland, Oregon, and the following action was had thereon :

“The Judicial Committee presented its report in the case of the Presbyterian Church in the U. S. of A. vs. Rev. Charles A. Briggs, D. D., which was accepted, as follows :

The Judicial Committee respectfully reports that it has carefully considered the documents submitted to it in this case, and adopted the following resolutions :

1. That, in the opinion of this Committee, the Appeal taken by the Presbyterian Church in the United States of America, an original party represented by the “Committee of Prosecution,” appointed under Section 11 of the Book of Discipline, has been taken from the final judgment of the Presbytery in dismissing the case ; and that the said Committee had the right to take this Appeal representing the said original party.

2. That it finds that the notice of the Appeal has been given, and that the Appeal, Specifications of Error, and Record have been filed in accordance with Sections 96 and 97 of the Book of Discipline, and the appeal is in order.

3. That, in the judgment of the Committee, the Appeal should be entertained, and a time set apart for the hearing of the case.

In view of these considerations, the Committee reports that the Appeal is in order, and that the General Assembly should proceed, in accordance with the provisions of Section 99 of the Book of Discipline, by causing the judgment appealed from, the notice of Appeal, the Appeal and the specifications of the errors alleged, to be read ; then to hear the appellant by the Committee of Prosecution ; then the defendant in person, or by his counsel ; then the appellant by the Committee of Prosecution in reply, upon the question, “Whether the Appeal shall be enter-

tained?" (Minutes of General Assembly, 1892, page 90.)

The General Assembly was then constituted and charged, in accordance with Rule XL. of the General Rules for Judicatories, and during its sessions, on the 25th and 26th days of May, 1892, heard the Arguments of the Appellant and the Appellee upon the question whether the Appeal should or should not be entertained, the Assembly adopted the report of the Judicial Committee and the Appeal was entertained. (Minutes of General Assembly, 1892, pp. 118 and 119.)

Against this action of the Assembly, "in entertaining the Appeal of the Prosecuting Committee, * * * and so giving the Committee which preferred the Charges against Dr. Briggs, standing before the Assembly and right of Appeal as an original party," a protest was presented by the Rev. S. J. McPherson, D.D., and others, which protest was ordered to be entered on the Minutes of the Assembly without answer. (Minutes of General Assembly, 1892, p.p. 153, 205.)

The Appeal, upon its merits, was then fully argued by the Appellant and the Appellee before the General Assembly, on May 28th, 1892 (Minutes of General Assembly, 1892, p.140), and the provisions of Section 99 of the Book of Discipline having been fully complied with, each of the twenty-five specifications of error was sustained. The yeas and nays were ordered upon the question, "Shall the Appeal be sustained?" and 431 Commissioners voted to sustain the Appeal and 87 voted not to sustain. (Minutes of General Assembly, 1892, p. 141.)

On May 30th, 1892, the Committee appointed to draft a form of Judgment to be entered in the said case submitted its report and recommended the form of decree or order, which was adopted, (Minutes of the General Assembly, 1892, p. 152) and is as follows :

<p>“THE PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA <i>vs.</i> REV. CHARLES A. BRIGGS, D. D.)</p>	}	<p>Appeal from the judgment of the Presbytery of New York, dismissing the case.</p>
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“The General Assembly having, on the 28th day of

May, 1892, duly sustained all the specifications of error alleged and set forth in the appeal and specifications in this case,

“It is now, May 30, 1892, ordered, that the judgment of the Presbytery of New York, entered November 4, 1891, dismissing the case of the Presbyterian Church in the United States of America against Rev. Charles A. Briggs, D. D., be, and the same is hereby, reversed. And the case is remanded to the Presbytery of New York for a new trial, with directions to the said Presbytery to proceed to pass upon and determine the sufficiency of the charges and specifications in form and legal effect, and to permit the Prosecuting Committee to amend the specifications or charges, not changing the general nature of the same, if, in the furtherance of justice, it be necessary to amend, so that the case may be brought to issue and tried on the merits thereof as speedily as may be practicable.

“And it is further ordered, that the Stated Clerk of the General Assembly return the record, and certify the proceedings had thereon, with the necessary papers relating thereto, to the Presbytery of New York.”

This mandate of the General Assembly was received by the Stated Clerk of the Presbytery of New York and submitted to the Presbytery at its meeting held on the 13th day of June, 1892, when the Presbytery

“*Resolved*, That in the judgment of Presbytery, the issue of the case is impracticable during the Summer, but will receive the attention of Presbytery on its reassembling in the Fall.”

On the 9th day of November, 1892, the Presbytery of New York met, was constituted and charged, in accordance with Rule XL. of the General Rules for Judicatories. During the first day's session of the said Judicatory, in compliance with the said mandate of the General Assembly, and the provisions of Section 22 of the Book of Discipline, the said Judicatory permitted the Prosecuting Committee to amend the Charges and Specifications theretofore submitted in this case, and the Prosecuting

Committee thereupon submitted amended Charges and Specifications. In the furtherance of justice, and with an earnest desire to fairly and fully meet and conform to the suggestions and objections raised by Dr. Briggs in his response to the original Charges and Specifications, so far as such objections were valid or well taken, the Prosecuting Committee, without departing from or changing the general nature of the original Charges, made such amendments as appeared to them to be necessary to secure clearness and certainty as to what was charged; also to prevent the Charges from covering more than one offence and to make the Specifications, and the proofs cited in support thereof, germane and pertinent to the Charges they were intended to sustain. The sessions of said Judicatory were continued with certain interruptions for a number of days, during which certain proceedings were taken as recorded in the minutes of said Judicatory, which minutes are hereby referred to as a part of the record of the proceedings in this case, which culminated in the decision and final Judgment from which this Appeal is taken.

On the 9th day of January, 1893, a committee consisting of the Rev. George Alexander, D. D., the Rev. Henry Van Dyke, D. D. and Elder Robert Jaffray, appointed to bring in a minute to express the action of the said Judicatory, made its report, which was adopted by the Judicatory, and the said Presbytery, sitting in a judicial capacity, made and entered its decision and final judgment in this case, in the following words, to wit:

“The case of the Presbyterian Church in the United States of America against the Reverend Charles A. Briggs, D. D., having been dismissed by the Presbytery of New York on November 4th, 1891, was remanded by the General Assembly of 1892 to the same Presbytery, with instructions that ‘it be brought to issue and tried on the merits thereof as speedily as possible.’”

“In obedience to this mandate the Presbytery of New York has tried the case. It has listened to the evidence and argument of the Committee of Prosecution, acting in

fidelity to the duty committed to them. It has heard the defense and evidence of the Rev. Charles A. Briggs, presented in accordance with the rights secured to every minister of the church.

“The Presbytery has kept in mind these established principles of our polity, “that no man can rightly be convicted of heresy by inference or implication”; that “in the interpretation of ambiguous expressions candor requires that a court should favor the accused by putting upon his words the more favorable rather than the less favorable construction,” and “there are truths and forms with respect to which men of good character may differ.”

“Giving due consideration to the defendant’s explanation of the language used in his Inaugural Address, accepting his frank and full disclaimer of the interpretation which has been put upon some of its phrases and illustrations, crediting his affirmations of loyalty to the Standards of the church and to the Holy Scriptures as the only infallible rule of faith and practice, the Presbytery does not find that he has transgressed the limits of liberty allowed under our Constitution to scholarship and opinion.

“Therefore, without expressing approval of the critical or theological views embodied in the Inaugural Address or the manner in which they have been expressed and illustrated, the Presbytery pronounces the Rev. Charles A. Briggs, D. D., fully acquitted of the offences alleged against him, the several charges and specifications accepted for probation having been “not sustained” by the following vote :

		SUSTAINED.			NOT SUSTAINED.			
		MINISTERS.	ELDERS.	TOTAL.	MINISTERS.	ELDERS.	TOTAL.	
I.	1 Specification, . . .	41	17	58	55	15	70	
	2 " . . .	42	17	59	54	15	69	
	Charge { <i>a</i> . . .	42	17	59	54	15	69	
		<i>b</i> . . .	42	17	59	54	15	69
II.	1 Specification, . . .	39	16	55	56	16	72	
	2 " . . .	39	16	55	56	16	72	
	Charge { <i>a</i> . . .	39	16	55	56	16	72	
		<i>b</i> . . .	39	16	55	56	16	72
III.	Specification, . . .	44	17	61	52	15	67	
	Charge { <i>a</i> . . .	44	17	61	52	15	67	
		<i>b</i> . . .	42	17	59	54	15	69
		<i>c</i> . . .	44	17	61	52	15	67
IV.	Specification, . . .	39	15	54	55	17	72	
	Charge { <i>a</i> . . .	39	15	54	55	17	72	
		<i>b</i> . . .	39	15	54	55	17	72
V.	Specification, . . .	35	14	49	57	16	73	
	Charge { <i>a</i> . . .	35	14	49	57	16	73	
		<i>b</i> . . .	35	14	49	57	16	73
VI.	Specification, . . .	41	16	57	55	14	69	
	Charge,	41	16	57	55	14	69	

“Accordingly, the Presbytery, making full recognition of the ability, sincerity and patience with which the Committee of Prosecution have performed the onerous duty assigned them, does now, to the extent of its constitutional power, relieve said Committee from further responsibility in connection with this case. In so doing, the Presbytery is not undertaking to decide how far that Committee is subject to the authority of the body appointing it, but intends by this action to express an earnest con-

viction that the grave issues involved in this case will be more wisely and justly determined by calm investigation and fraternal discussion than by judicial arraignment and process.

“In view of the present disquietude in the Presbyterian Church, and of the obligation resting upon all Christians to walk in charity and to have tender concern for the consciences of their brethren, the Presbytery earnestly counsels its members to avoid on the one hand hasty or over-confident statement of private opinion on points concerning which profound and reverent students of God’s word are not yet agreed, and, on the other hand suspicions and charges of false teaching which are not clearly capable of proof.

“Moreover, the Presbytery advises and exhorts all subject to its authority to regard the many and great things in which we agree rather than the few and minor things in which we differ; and, turning from the paths of controversy, to devote their energies to the great and urgent work of the Church, which is the proclamation of the Gospel and the edifying of the Body of Christ.”

From the aforesaid action, decision and final judgment of the said Presbytery of New York, sitting in a judicial capacity, taken on the ninth day of January, 1893, being the final judgment of the said Presbytery in the case of the Presbyterian Church in the United States of America against the Rev. Charles A. Briggs, D. D., in behalf of the Presbyterian Church in the United States of America, we, the undersigned, the Prosecuting Committee in the said case, do hereby appeal to your Venerable Body, the General Assembly of the Presbyterian Church in the United States of America, in accordance with the provisions of Sections 94 to 102, inclusive, of the Book of Discipline.

Under the provisions of Section IV. of Chapter XI. of the Form of Government of said Presbyterian Church, the decision of a Synod on an Appeal which affects the doctrine of the Church, is not final.

Section V. of Chapter XII. of the said Form of Government devolves upon the General Assembly “the power of

deciding in all controversies respecting doctrine and discipline; of reproof, warning, or bearing testimony against error in doctrine * * * in any church, presbytery or synod."

Section IV. of the same Chapter provides that "The General Assembly shall receive and issue all Appeals * * * that affect the doctrine or constitution of the Church, which may be regularly brought before them from the inferior judicatories."

Under these Sections of the Form of Government and Section 102 of the Book of Discipline, the Appeal from the former Judgment dismissing this case was taken by the Prosecuting Committee, in behalf of the said Presbyterian Church, directly from the Presbytery of New York to the General Assembly. The Supreme Court of the Church, after full discussion, assumed jurisdiction of the case, entertained the Appeal, and, after further full argument, sustained the same.

The General Assembly, in reversing the former Judgment of the Presbytery, directed that the case should be tried upon its merits by the Presbytery of New York, and from the result of that trial it is proper that the Appeal should be made directly to the higher Judicatory, which has already entertained jurisdiction of the case.

The status of the Prosecuting Committee, as representing the Presbyterian Church in the United States of America, as an original party, under Sections 10 and 11 of the Book of Discipline, having been sustained by the General Assembly of 1892, the Committee is charged with conducting the prosecution in all its stages, in whatever Judicatory, until the final issue be reached.

The Prosecuting Committee can not accept the decision of the Presbytery of New York as final, and not take an appeal therefrom, inasmuch as it would thereby assume the responsibility of acting for the entire Church and would surrender the Church's rights and the only opportunity of securing a final determination, by the General Assembly, of the questions at issue which involve most important and fundamental doctrines.

As the Book of Discipline, Section 96, provides that written Notice of Appeal, with the specifications of the errors alleged, shall be given within ten days after the Judgment has been rendered, the Prosecuting Committee must act promptly, and without being able to obtain in advance the instruction or wishes of the only body representing the entire Church, namely, the General Assembly.

If the action of the Committee in taking this Appeal does not commend itself to the court of last resort it need not be entertained, and the Appeal can be dismissed without prejudice to any interest.

Under ordinary conditions the Prosecuting Committee would have taken this Appeal to the Synod of New York, but it does not appear to be best to do so in this exceptional case for the following reasons :

1. To secure the peace and quiet of the Church it is essential that a final determination of the fundamental and important questions involved should be reached by the Court of last resort at the earliest practicable date.

2. As this case involves doctrine, it must be finally determined by the General Assembly. The delay in reaching an ultimate decision through an appeal by way of the Synod could not be less than a year, during which the character of instruction given our candidates for the gospel ministry might be unfavorably affected. By securing the speedy decision of the Court of last resort in this case, neither the rights nor the interests of any individual would suffer.

3. If the Appeal should go to the Synod of New York and be passed upon by that Judicatory, when the case reaches the General Assembly by appeal from the decision of the Synod, all of the Presbyteries constituting that Synod would be excluded from representation in the final determination of these important questions. If the Appeal goes directly to the Assembly, the Commissioners from only one Presbytery in the entire Church would be excluded from sitting, deliberating and voting in the final decision. In the Synod of New York there are thirty-two Presbyteries, nearly fifteen per cent. of the

whole number of Presbyteries in the Church. In as much as all these Presbyteries, excepting one, would be fully represented and heard in the General Assembly, and the General Assembly alone can give a final decision, we believe the time and the interests of the Synod of New York will be best conserved if the Assembly should entertain the Appeal according to the Committees request. This important consideration of having these questions finally determined by the representatives of substantially the entire Church, apart from the other reasons above mentioned, would seem to require, in the interest of fairness and justice to all concerned, that the Prosecuting Committee should take an Appeal directly to the General Assembly, and that the General Assembly should entertain said Appeal.

The grounds of this appeal are as follows :

FIRST GROUND OF APPEAL.

IRREGULARITY IN THE PROCEEDINGS OF SAID PRESBYTERY OF NEW YORK.

(Section 95, Book of Discipline.)

SPECIFICATION FIRST.

In this, that in consideration of objections offered by the accused the Presbytery of New York, sitting in a judicial capacity, required the Prosecuting Committee to amend the Amended Charges and Specifications submitted to said Presbytery on the 9th day of November, 1892, by striking out Charge IV., said Charge IV. being in substance an essential part of the original Charges and Specifications in the case sent down by the last General Assembly to the said Presbytery, with instructions that the said case be brought to issue and tried on the merits thereof.

SPECIFICATION SECOND.

In this, that in consideration of objections offered by the accused the said Presbytery required the said Prosecuting Committee to amend the Amended Charges and Specifications by striking out Charge VII.; said Charge VII. being in substance an essential part of the original Charges and Specifications in the case sent down by the last General Assembly to the said Presbytery, with instructions that the said case be brought to issue and tried on the merits thereof.

SPECIFICATION THIRD.

In this, that the said Presbytery, before proceeding to trial, directed the transference of the proofs cited by the Prosecuting Committee from the Scriptures, the Confession of Faith and the Catechisms, to sustain the several Specifications, from the Specifications to the Charges, by the following action, to wit: "Without sustaining the general objection to the relevancy of the proofs from the Scriptures, Catechisms and Confession, the Presby-

tery directs the transference of these proofs from the Specifications to the Charges.”

SPECIFICATION FOURTH.

In this, that the Moderator of the Presbytery, the Rev. John C. Bliss, D. D., without submitting the question to the Judicatory, ruled that the Rev. Joseph J. Lampe, D. D., speaking as a member of the Prosecuting Committee, introduced new matter in his argument in reply to the argument of the accused, and without specifying the alleged new matter, the Presbytery, after the close of the argument of the said Rev. Joseph J. Lampe, D.D., on behalf of the Prosecuting Committee, took the following action, to wit :

“Resolved, that the Presbytery now give the defendant an opportunity to reply.”

SPECIFICATION FIFTH.

In this, that by the the ruling of the Moderator, referred to in Specification Fourth, the said Prosecuting Committee were refused the opportunity to close the case, contrary to the practice and precedents in such cases in the Judicatories of the Presbyterian Church in the United States of America.

SPECIFICATION SIXTH.

In this, that, notwithstanding the fact that the said Dr. Briggs declined to be sworn as a witness when called upon, the said Presbytery accepted statements or explanations of the language used by the said accused, or disclaimers on the part of the said accused, and gave to said statements, explanations or disclaimers in the final judgment of the said Presbytery, the force of such sworn, approbated and subscribed testimony, as is described or referred to in Sections 61 and 62 of the Book of Discipline.

SPECIFICATION SEVENTH.

In this, that there was placed upon or in the Official Stenographic Report of the proceedings of the said Judicatory, of December 5th, 1892, as furnished to the parties by the Stenographer, beginning at the last line on page 448

(erased page No. 461) to a point below the middle of page 468 (erased page No. 481), about twenty pages, which said twenty pages contain words and matter which were not spoken upon the floor of the Presbytery, and, as is stated by the Stenographer, were introduced into the Stenographic Report upon the request or suggestion of Prof. Briggs, with the approval of the Moderator, and after it had been announced to the Judicatory that both of the parties had fully presented their evidence, and after the argument of the Prosecuting Committee had been begun.

SPECIFICATION EIGHTH.

In this, that there was placed upon or in the Official Stenographic Report of the proceedings of the said Judicatory, beginning at page 468 of said Official Stenographic Report of the proceedings of the said Presbytery, held on Monday, December 5th, 1892, fifteen or more additional printed sheets, which said fifteen or more additional printed sheets contain words and matter which were not spoken upon the floor of the Presbytery, and were introduced by the Stenographer into the official Stenographic Report of the proceedings, as said Stenographic Report of December 6, 1892 shows, (page 578), upon the request or suggestion of Prof. Briggs and by direction of the Moderator, and after it had been announced to the Judicatory that both of the parties had fully presented their evidence, and after the argument of the Prosecuting Committee had been begun.

SPECIFICATION NINTH.

In this, that the request of the Prosecuting Committee that such part of the Stenographic Report described and referred to in Specifications Seventh and Eighth as twenty pages and fifteen or more additional printed sheets, respectively, should be stricken out and that the accused should not be permitted to refer to or use any portion of such matter, or the books or documents therein referred to, as evidence upon the trial, was refused by the said Judicatory, and in this, that the record of said request

was stricken from the Minutes of the said Presbytery. (See Records of the New York Presbytery, Vol. 14, pp. 395, 396.)

SPECIFICATION TENTH.

In this, that after the Prosecuting Committee had objected to the insertion into the Official Stenographer's Report of certain words and matter, said matter being upon about twenty pages of the Stenographer's notes, and fifteen or more printed sheets being the pages and printed sheets referred to in Specification Seventh and Eighth, which said words and matter were not spoken on the floor of the Presbytery, and after the said Prosecuting Committee had requested that the said twenty pages and the said fifteen or more printed sheets should be stricken out, and that the accused should not be permitted to refer to or to use any portion of such matter or the books or documents therein referred to, as evidence upon the trial, and in this, that the said Presbytery, while retaining as a part of the Stenographer's Report, the said twenty pages and the said fifteen or more printed sheets, voted to strike out of the Minutes the said record of the request of the said Prosecuting Committee.

SPECIFICATION ELEVENTH.

In this, that when the vote was taken on the said Charges and Specifications, the said Presbytery refused to permit any of the members of the said Judicatory to vote, to "Sustain in part," contrary to the precedents and practice of the judicial procedure of the Presbyterian Church in the United States of America.

SPECIFICATION TWELFTH.

In this, that the said Presbytery required that each item in Charges I, II, III, V and VI should be voted upon separately, thereby implying and proceeding upon the theory, which was not warranted by the facts, that each of said Charges contained more than one offence. (See Records of the New York Presbytery, Vol. 14, p. 368.)

SECOND GROUND OF APPEAL.

RECEIVING IMPROPER TESTIMONY.

(Section 95, Book of Discipline.)

SPECIFICATION FIRST.

In this, that notwithstanding the fact that the said accused declined to be sworn as a witness when called upon, the said Presbytery accepted statements or explanations of the language used by the said accused or disclaimers on the part of the said accused and gave to said statements, explanations or disclaimers, in the final judgment of the said Presbytery, the force of such sworn, approved and subscribed testimony as is described or referred to in Sections 61 and 62 of the Book of Discipline.

SPECIFICATION SECOND.

In this, that the Moderator, at the request of the said accused, instructed the Stenographer, as appears by page 578 of the Stenographer's Report of the proceedings of December 6th, 1892, to insert, beginning at the last line on page 448 (erased page No. 461), to a point below the middle of page 468 (erased page No. 481) of the Official Stenographer's Report of the proceedings of the Judicatory at its session on Monday, December 5th, about twenty pages of stenographic notes, and also fifteen or more additional printed sheets beginning at page 468 of the Official Stenographic Report, the statements and matter contained in the said twenty pages of said Stenographer's notes, and in the said fifteen or more additional printed sheets, being matter or statements which were not spoken upon the floor of the Presbytery, and which were permitted to remain as a part of the Stenographer's Official Report and were received by the said Judicatory as competent evidence.

SPECIFICATION THIRD.

In this, that the Presbytery admitted as lawful and competent testimony any part of the quotations made by the accused, in so far as they were writings or extracts from the writings of the said accused, without his having first taken the oath or affirmation required by Section 61 of the Book of Discipline.

THIRD GROUND OF APPEAL.

DECLINING TO RECEIVE IMPORTANT TESTIMONY.

(Section 95, Book of Discipline.)

SPECIFICATION FIRST.

In this, that the said Presbytery instructed the said Prosecuting Committee to strike out Amended Charge IV., thereby declining to permit the said Committee to prove said Charge IV. by competent evidence.

SPECIFICATION SECOND.

In this, that the said Presbytery instructed the said Prosecuting Committee to strike out Amended Charge VII., thereby declining to permit the said Committee to prove said Charge VII. by competent evidence.

FOURTH GROUND OF APPEAL.

MANIFESTATION OF PREJUDICE IN THE CONDUCT
OF THE CASE.

(Section 95, Book of Discipline.)

SPECIFICATION FIRST.

In this, that several members, hereinafter named, of the said Presbytery, sitting in a judicial capacity, who afterwards voted not to sustain each and every one of the Specifications and Charges, made statements upon the floor of the Presbytery, respectively, as hereinafter set forth, to wit :

Rev. George Alexander, D. D., said :

“What seems to me strange, Mr. Moderator, is that one of Dr. Shedd’s acknowledged logical faculty should be so blind to the distinction that ought to be made. I could adopt as my own every word of that which he quoted from Dr. Briggs, and I am not a Restorationist. The Lord has done great things for me whereof I am glad, and I confidently believe that he is going to do a great deal more for me hereafter. But that has nothing to do

with the question as to whether Dr. Briggs holds that there is redemption in the world to come for those who die in sin. The difficulty is, that this Charge imputes to Dr. Briggs views which he distinctly says he does not hold." * * * "When Dr. Briggs intimated a suspicion that the Prosecuting Committee might be holding back deliberately with testimony or evidence in order to crush him with it after the opportunity for response had gone by, I resented that suspicion and if it had been in order I should have risen in my place and asked him to withdraw those words because it seemed to me an unworthy suspicion. Now, that the suspicion seems to be justified by the event, I am at a loss what to say. I am puzzled and distressed. The members of this Prosecuting Committee are my personal friends; I cannot believe that there is one of them that would consciously do an injustice. I won't believe it, but I cannot shrink from the fact that a wrong has been done in some way and the more I think of it and the more I think of the defendant, from whom I differ so widely, worn out and weak and suffering from this terrific strain, required now to meet this fresh assault—why, the more every drop of Anglo-Saxon blood in me protests against it. We cannot remedy the wrong. All that we can do is to give the defendant, if he desires it (I hope he will not desire it), an opportunity to meet this fresh evidence and this fresh argument; giving him reasonable time to prepare his defense, and, if need be, giving the prosecution the last word. I should not object to that at all. But, having spent so much time, we cannot afford to seem, even, to do an injustice to any one."

Rev. Antonio Arregui, said :

"An engagement made long before this Court, and made out of fidelity to my work, renders it impossible for me to attend at the sessions of this Court to-morrow and the day after. I therefore ask the unanimous consent of the House to excuse me for those two days. It seems to me a great injustice because I have an engagement, over which I have no control in the least, and if I

am not enrolled, it deprives me of the right to vote on this trial. I may say right here that it is well known by the Brethren on which side of the House each man stands on this floor." [Cries of No! no!].

Rev. Henry M. Field, D.D., said :

"I wish at the beginning of this trial we might have one vote that could be unanimous. We are all anxious to hurry on this matter as much as possible. I believe our excellent friends of the Prosecuting Committee would be very glad if this Presbytery would relieve them of the necessity of pressing these two portions of their Charges. Let us be unanimous. I do not think Col. McCook would be at all sorry to have these two Charges stricken out. There are enough Charges left anyway to sink a ship. Let us go to trial on them and, if possible, unite in this first disposal of these two Charges, which will be a most happy and auspicious omen for all the rest."

Rev. Thomas S. Hastings, D.D., said :

"The change is radical, in my judgment, between this amended Charge IV. and what was in the former Charges. It gives the lie direct. That is the plain English of it and there is no getting around that by any casuist. Dr. Briggs has told this Presbytery that he does not hold such views, and in his demurrer he has reiterated it. Now, to bring before such a body as this a Charge to try a man upon, assuming that it is doctrinal, when it is really moral—being a question whether he lies or not—is certainly a very serious and a very radical change. * * * I said that the charge does give him the lie direct and I adhere to it. I did not say, however, that the Committee called Dr. Briggs a liar. * * * And I take it that he himself is to be accepted as an authority as to what he meant in that Inaugural Address and in anything else that he has said or published and what has seemed to me extremely unfair and ungenerous on the part of some, is the persistent effort to read into his language what he says distinctly was not in his mind and was not his intention. A man must be his own interpreter, and, as I

understand it, Dr. Briggs is before this body saying that he intended no such thing as is charged against him. When a man says that about a charge, it seems to me that it is utterly out of character and out of keeping for the Presbytery to insist upon that Charge. Accept the man's disclaimer and denial and let the Charge be withdrawn."

Rev. Henry Van Dyke, D.D., said :

"I can very readily specify some new matter that has been introduced. It is quite evident that new matter has been introduced [cries of "No! no!"]. Those who do not yet see it will see it when the Court comes to vote upon it. So it is simply a matter of fairness and justice that we should allow the defendant, if he wishes it, to reply. It would be an unheard of thing in any civil Court that a prosecution should be allowed to traverse new ground and that the accused should not be allowed to be heard or to offer evidence in rebuttal. It is a thing to cause the blood of an Anglo-Saxon to boil within him, every drop of it, too. Moreover, Mr. Moderator, it is not simply that new matter has been introduced, but that statements which have been made by the defendant again and again upon this floor in respect to doctrines which he rejects, have been again attributed to him. And I maintain that it is simply a matter of fairness and candor that we should make this offer to Dr. Briggs, whether he will accept it or not, for the sake of the honor of this House and in the way of decency."

SPECIFICATION SECOND.

In this, that while the said Presbytery in obedience to the mandate of the last General Assembly has issued and tried the case, it has not tried it fully on the merits thereof, as is evinced by the striking out of Charges IV. and VII. of the Amended Charges and Specifications.

SPECIFICATION THIRD.

In this, that said Presbytery, in said final judgment, by attempting to relieve the said Prosecuting Committee

from further responsibility in connection with this case appears to hinder and prevent the attainment of the ends of discipline, apparently aiming to now terminate the said case, and thus secure the same result that the said Presbytery attempted to reach on November 4th, A.D. 1891, by voting to dismiss the said case.

SPECIFICATION FOURTH.

In this, that the said Presbytery, in said final judgment, expresses "an earnest conviction that the grave issues involved in this case will be more wisely and justly determined by calm investigation and fraternal discussion than by judicial arraignment and process" notwithstanding the fact that the General Assembly directed the case to be tried on the merits thereof and thereby expressed a no less earnest conviction that the grave issues involved should be determined by judicial arraignment and process.

SPECIFICATION FIFTH.

In this, that sundry members of the said Presbytery, to wit: Rev. Francis Brown, D. D., Rev. Henry M. Field, D. D., Rev. Thomas S. Hastings, D. D., Rev. J. Hall McIlvaine, D. D., and Rev. Henry Van Dyke, D. D., sat and deliberated in the trial of this case and voted to acquit the said accused, upon each and every specification and charge, after manifestations of prejudice in the conduct of the case, on the part of the said members was charged in the appeal to and sustained by the General Assembly of 1892.

SPECIFICATION SIXTH.

In this, that sundry Directors, Officers and Professors of Union Theological Seminary, to wit: Rev. Francis Brown, D. D., Rev. Edward L. Clark, D. D., Rev. Charles R. Gillett, D. D., Rev. Thomas S. Hastings, D. D., Rev. J. Hall McIlvaine, D. D., Rev. Philip Schaff, D. D., Rev. W. M. Smith, D. D., Rev. Marvin R. Vincent, D. D., and William A. Wheelock, Esq., sat and deliberated in the said trial and voted to acquit the said accused upon each and every specification and charge, said Directors,

Officers and Professors having previously approved and published the said Inaugural Address, as appears in the first edition which bears the imprint: "Printed for The Union Theological Seminary, New York, 1891," "Copyright, 1891, by The Union Theological Seminary," and as also appears in the second edition of said Inaugural Address, which was also "Copyright, 1891, by The Union Theological Seminary," which said Inaugural Address contained the alleged erroneous doctrines for the holding and publishing of which doctrines the accused was then on trial.

FIFTH GROUND OF APPEAL.

MISTAKE OR INJUSTICE IN THE DECISION.

SPECIFICATION FIRST.

In this, that the said Presbytery having declared the said Amended Charges and Specifications sufficient in form and legal effect and the said accused having repeatedly admitted the facts as set forth in the said several Specifications the said Presbytery was inconsistent and erred in not accepting the said admissions of the said accused and in not sustaining the said Charges as its final judgment.

SPECIFICATION SECOND.

In this, that the said final judgment of the said Presbytery was not warranted by the law and the evidence, because the Court had decided that the Charges were sufficient in form and legal effect; that is, it had already substantially determined that if the accused had taught the doctrine with which he was charged, he was guilty of an offence. The several Charges alleged an offence and the several allegations were proved by extracts from the Inaugural Address cited in the several Specifications, and said extracts were admitted as authentic by the accused, and were not retracted by him. The proof was therefore complete. Said accused also introduced his own writings as evidence, which writings, so introduced,

contained the extracts recited by the Prosecuting Committee in the several Specifications. If the accused had brought evidence to show that he had made no such utterances as were contained in the specifications then and then only should he have been "fully acquitted." The indictment had been found in order. The evidence was unchallenged and the judgment should have been "guilty as charged."

SPECIFICATION THIRD.

In this, that the said final judgment of the said Presbytery, which disclaims to be an expression of the approval of the critical or theological views embodied in the said Inaugural Address, is, in fact, an approval of said critical or theological views and will have the effect of encouraging the dissemination of said views and will further increase the present disquietude in the said Presbyterian Church and practically sets at naught the declaration of the General Assembly of 1892, as found on page 179 of its Minutes, in which said General Assembly "reminds all under its care that it is a fundamental doctrine that the Old and New Testaments are the inspired and infallible word of God," and that "our Church holds that the inspired Word, as it came from God, is without error. The assertion of the contrary cannot but shake the confidence of the people in the sacred Books."

SPECIFICATION FOURTH.

In this, that the said final judgment is vague and uncertain, inasmuch as said judgment gives due consideration to the defendant's explanation of the language used in his Inaugural Address and accepts his disclaimer of the interpretation which has been put upon some of its phrases and illustrations, but does not specify which explanations, phrases or illustrations, or whether such explanations or disclaimers relate to the portions of the said Inaugural Address upon which the Charges and Specifications are based, and the said judgment is also vague and uncertain in the statement that the said

accused has not transgressed the limits of liberty allowed under our Constitution to scholarship and opinion.

SPECIFICATION FIFTH.

In this, that the said final judgment is based wholly, or in part, on the affirmation of loyalty made by the said defendant to the Standards of the Church and to the Holy Scriptures, as the only infallible rule of faith and practice, when such affirmations consisted only of unsworn statements, which statements were not competent evidence and should have had no greater weight or influence in shaping the final judgment than the ordinary and technical plea of "not guilty."

SPECIFICATION SIXTH.

In this, that the said Presbytery received and was moved by unsworn and improper testimony in making its decision or final judgment, said improper testimony being statements and arguments for the defence of said accused, touching the merits of the case and being explanations made by the accused of the language used in his Inaugural Address and also statements referred to in the said final judgment, as a frank and full disclaimer of the interpretation which has been put upon some of its phrases and illustrations and in giving to the argument of the said accused, as counsel in his own behalf, the consideration due to sworn and approbated testimony as provided for in Sections 61 and 62 of the Book of Discipline.

SPECIFICATION SEVENTH,

In this, that said final judgment is vague and misleading and confounds unjustifiable controversy with useful and constitutional discipline, ignoring the fact that "The ends of Discipline are the maintenance of the truth, the vindication of the authority and honor of Christ, the removal of offences, the promotion of the purity and edification of the Church, and the spiritual good of offenders." (Book of Discipline, Sec. 2.)

SPECIFICATION EIGHTH.

In this, that said final judgment is misleading and unjust, because it evidently but erroneously aims to set forth that there has been an effort to convict the accused by inference or implication, and in quoting the words "there are truths and forms with respect to which men of good character may differ," seems to deny and make light of the well-established principle of our polity, that there are also truths and forms with respect to which men of good character, who have assumed the ordination vows of a Minister in the Presbyterian Church in the United States of America, should not differ.

SPECIFICATION NINTH.

In this, that upon December 28th, 1892, when the Rev. George Alexander, D. D., offered a resolution as follows, to wit:

"The Court deems it proper to declare that a vote by any member of this Court not to sustain the charges preferred against Rev. Charles A. Briggs, D. D., does not denote approval of his theological or critical views or of the manner in which they have been advanced, but only a judgment that the specific charges have not been established," and after the said resolution had been discussed, it was laid on the table, and subsequently, after the vote on the Charges and Specifications had been taken the said resolution of Dr. Alexander was again taken up and referred to the Committee appointed to prepare the final judgment.

SPECIFICATION TENTH.

In this, that the said Presbytery, on January 9th, A. D. 1893, sitting in private session, refused to strike out of the resolution offered by Rev. Geo. Alexander, D. D., and referred to in Specification Ninth the words, "does not denote approval of his theological or critical views or of the manner in which they have been advanced."

SPECIFICATION ELEVENTH.

In this, that the said final judgment of the said Presbytery is contradictory in form and effect, because in said final judgment the said Judicatory disclaimed agreement with the critical or theological views held by the accused, which were pronounced by said Judicatory when they voted not to sustain the charges, as in agreement with the [Scriptures and the Standards. By reason of their ordination vows and obligations, the views of all the members of the said Judicatory must be assumed to have been in agreement with the Scriptures and Standards. Therefore, if the views of the accused were in agreement with the Scriptures and the Standards, and if the views of the majority of the members of the said Judicatory were not in agreement with those of the accused, then the views of the majority of the members of the said Judicatory must, according to the final judgment, have been in disagreement with the Scriptures and the Standards.

It can not be urged that there was room for the agreement of both the views of the accused and the views of the majority of the members of the said Judicatory with the Scriptures and the Standards, because said Judicatory had already determined when the charges were pronounced sufficient in form and legal effect, that the said views if held by the accused constituted an offence. The Judicatory was therefore shut up to one of two legal and proper courses, either to declare that they agreed with the views of the accused, or to declare that the views of the accused disagreed with the Scriptures and the Standards. In the former case they should have refrained from disclaiming agreement with the views of the accused ; in the latter case they should have voted to sustain the charges. There is, therefore, a contradiction in the form and effect of the final judgment.

And in conclusion your Appellant prays your Venerable Body, the General Assembly of the Presbyterian Church in the United States of America, to receive and issue this appeal, and to take therein such action as in

