

the Presbyterian Church of Canada in connection with the Church of Scotland. It did not owe its existence to any charter or statute, but it grew out of the settlement in this country of Presbyterians in communion with the Church of Scotland. But if no statute defined precisely the limits, rights and privileges of this body, numerous statutes acknowledged its existence, and the right of its clergy to share in the lands known as the "Clergy Reserves," was admitted. When, by process of legislation, the share of the clergy of the Church of Scotland in Canada became fixed, an Act of the Legislature of United Canada was obtained (22 Vic., cap. 66) to make provision for the management and holding of certain funds of the Presbyterian Church in connection with the Church of Scotland, "now held in trust by certain commissioners, hereinafter named, and for the benefit thereof, and also of such other funds as may from time to time be granted, given, bequeathed, or contributed thereto." The body so incorporated is the Board of Management, the present respondent.

This Act being still in force, in 1874 numerous clergymen and others, members of different Presbyterian churches in Canada, deemed it desirable to unite their ecclesiastical fortunes and henceforward to form one body, to be called "The Presbyterian Church in Canada." Nothing could be more lawful or more praiseworthy than the attempt to sink minor differences of opinion in order to attain greater efficiency, but we have not to decide as to motives and intentions. Our duty is deliberately and coldly to decide a question of law. Application was made almost simultaneously to the Legislatures of Ontario and Quebec for authority to give effect to this determination, and to enable the new body to deal with the property of the Churches so united. An Act of the Ontario Legislature (38 Vic., cap. 75) was passed, the preamble of which sets up that:—

"Whereas the Canada Presbyterian Church, the Presbyterian Church of Canada in connection with the Church of Scotland, the Church of the Maritime Provinces in connection with the Church of Scotland, and the Presbyterian Church of the Lower Provinces, have severally agreed to unite together and form one body or denomination of Christians, under the

name of "The Presbyterian Church in Canada;" and the Moderators of the General Assembly of the Canada Presbyterian Church, and of the Synods of the Presbyterian Church of Canada in connection with the Church of Scotland, and the Church of the Maritime Provinces in connection with the Church of Scotland, and the Presbyterian Church of the Lower Provinces, respectively, by and with the consent of the said General Assembly and Synods, have by their petitions, stating such agreement to unite as aforesaid, prayed that for the furtherance of this their purpose, and to remove any obstructions to such union which may arise out of the present form and designation of the several Trusts or Acts of incorporation by which the property of the said Churches, and of the colleges and congregations connected with the said Churches, or any of them respectively, are held and administered or otherwise, certain legislative provisions may be made in reference to the property of the said Churches, colleges and congregations, situate within the Province of Ontario and other matters affecting the same in view of the said Union."

The first section then vests all the property of the different Churches so united in the united body under the name of "The Presbyterian Church in Canada." Then come reservations and modifications of certain rights, and then by section 4 certain legislation in Ontario respecting the property of religious institutions is made applicable to the various congregations in Ontario in communion with the Presbyterian Church in Canada. Section 5 declares that all the property, real and personal, belonging to or held in trust for the use of any college or educational or other institution, or for any trust in connection with any of the said churches or religious bodies, either generally or for any special purpose or object, shall, from the time the said contemplated union takes place, and thenceforth, belong to and be held in trust for and to the use in like manner of "The Presbyterian Church in Canada." Section 7 then deals specially with Knox College and Queen's College, situate in Ontario, and with "The Presbyterian College" and with "Morrin College," situate in the Province of Quebec. Section 8 deals with the Temporalities Fund of the Presbyterian Church of Canada in connection with the Church of Scotland, "adminis-