

rity if not to vote for the change, at least to acquiesce in it, to avoid consequences, or for sake of conformity.

In addition to the general considerations thus submitted there is another argument against the legality of the powers assumed by the Kirk Session of St. Andrews as to the changes referred to, drawn from the Statute of the Province passed in 1849 (12 Vict., chap. 154) and from the amending act of 1857 (20 Vict., chap. 191) in connection with the *By Laws* passed at the meeting of Trustees of the Church held on the 31 Dec. 1850 and adjourned to the 11 March 1851.

By the former of these Acts (section 1) the Rev. Alexander Mathieson and other persons named, and their successors for ever are created a body, politic in name and in deed, by the name and style of *The Minister and Trustees of St. Andrew's Church, Montreal*, with power to sue and be sued in all Courts, and contracting and being contracted with, relative to the funds of the Corporation and the purposes for which the Corporation was constituted, with power to make "such *By Laws, Rules, and Regulations* as shall not be contrary to the Constitution and laws of this Province, or to the provisions of this Act, or to the Constitution of the Church of Scotland as in that part of the United Kingdom of Great Britain and Ireland "called Scotland, now by Law established."

By the second section it is enacted, that on sale of the Church property, the proceeds shall be "solely applicable to the maintenance of the public worship of God according to the form of the Established Church of Scotland" or to schools in connection with the said Church.

The first article of the By laws is in the following terms:

"The Church and Congregation now in connection with the established Church of Scotland "and adhering to the Standards thereof, declare that they shall continue to adhere to the said Standards and maintain the form of worship and Government of said Church.

Article 5, provides for the selection of a minister and his acceptance "and having received his acceptance the same, together with the presentation, shall be laid before the Presbytery of the Bounds, in order that the presentee may be invested with full powers as a Minister of said Church according to the laws and practice of the established Church of Scotland."

Article 18. This Church shall be under the ecclesiastical jurisdiction of the Synod of the Presbyterian Church of Canada, in connection with the established Church of Scotland, as sanctioned by the declaratory enactment of the General Assembly of the Church of Scotland, passed on the 24th May, 1833. It being understood that no act or declaration of said Synod shall contravene article 1 of these By Laws, and the Act of Incorporation of this Church."

Article 21. Every person, whether proprietor, pew holder, sitter, or member of this Church shall before they can be competent to elect, or be elected to any office, or to have any share in the Management of this Church subscribe these By laws.

Assuming these By laws to have been legally made, and to be unrepealed, they have the force of law, and by their terms, as well as from the tenor and object of the Statutes, it is clear that St. Andrew's Church is connected with the Established Church of Scotland in such manner as to be subject to its constitution, its standards and its practice, and is bound to continue to adhere to them, and to maintain the form of worship and government of that church including its mode of enforcing church discipline. The constitution, the laws, the standards and the practice of the established church of Scotland together with the statutes, and the By laws referred to, form the law of ST. ANDREW'S CHURCH, under which its property is held, and its temporal and spiritual matters conducted.