

proper matter for investigation by the civil court; the other properly belongs to the ecclesiastical. The difficulty in legislating for church property lies chiefly in the latter. Yet it is especially necessary to the ends of justice that this be amply secured.

In order to this, every act of Incorporation ought to provide for the integrity of the trustees in the faithful use of the property of which they are the guardians; and at the same time it ought to secure the proper jurisdiction of the spiritual courts over them. This may best be illustrated by an example. Let it be supposed that the minister of a congregation has been suspended or deposed by his Presbytery on a charge of heresy or immoral conduct; that the trustees and the congregation, or a majority of them, have nevertheless resolved that this deposed minister shall be kept in possession of the pulpit; it is manifest that in such a dereliction of duty the Presbytery could have no power to prevent the evil unless through the intervention of the civil courts—for the question has now become one of civil right, namely, whether, in such circumstances, the parties in possession are entitled to keep possession of the property. It is manifest that they would not be so in equity, for the minister duly deposed by his Presbytery is no longer a minister, and the property is diverted, contrary to right, from its original intention; and besides, all parties having solemnly engaged to submit to the decision of their spiritual judicatures, their contempt of discipline is a positive breach of faith. Provided these facts were admitted, these contumacious persons would be dispossessed on any decision in equity. But let it be supposed that the contumacious party raise a question as to the formality or justice of the Presbytery's proceedings, then it

would remain to be considered whether the civil court was competent to review the proceedings of the spiritual court, or whether they should *simpliciter* receive the certified sentence of the spiritual court as decisive. We presume that this last should be the case—for all parties had previously agreed to the principle essential to Presbyterianism, that the decision of the highest ecclesiastical judicature in a question of discipline is final. If this were admitted the civil court would feel itself bound to reclaim the property from those who refused to comply with the conditions on which it was held in trust, and to deliver it over to its rightful guardians, and for its specified uses.

This we presume is all that is meant by an expression found in the resolutions passed in the convention of delegates from the Presbyterian congregations which met at Cobourg in April, against which some captious objections have been made; "*that all Sessions, Presbyteries, and Synods, should be constituted bodies corporate, and that effect should be given to their judgments and proceedings, in matters spiritual, in the same manner as is done in Scotland.*" We are not aware that even in Scotland where Presbyterianism is the form of religion established by law, that the civil courts are ever called upon to enforce an ecclesiastical sentence, except in cases where some civil right is concerned—as in the instance above supposed; and their interposition in such cases is manifestly essential to the ends of justice, and differs in no respect from their interference in the management of the affairs of any other trust or corporation.

But that the rights connected with spiritual jurisdiction may be properly maintained, without any danger of dispute with those to whom is entrusted