

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 vested all the property of the different churches so united in the united body under the name of the "Presbyterian Church in Canada." Then came reservations and modifications of certain rights, and then by section 4 certain legislation in Ontario respecting the property of religious institutions was made applicable to the various congregations in Ontario in communion with the Presbyterian Church in Canada. Section 5 declared that all the property, real and personal, belonging to or held in trust for the use of any college, 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 dealt specially with Knox College and Queen's College in Ontario, and with "The Presbyterian College" and with "Morris College" in the Province of Quebec. Section 8 dealt with the Temporalities Fund of the Presbyterian Church of Canada in connection with the Church of Scotland, "administered by a Board incorporated by statute of the heretofore Province of Canada." Section 9 dealt with the Widows and Orphans Fund of "The Canada Presbyterian Church," and "The Presbyterian Church of Canada in connection with the Church of Scotland." Section 10 authorized the new body to take gifts, devises and bequests; and lastly, section 11 declared that "the union of the said Churches shall be held to take place so soon as the articles of the said union shall have been signed by the moderators of the said respective Churches." The legislation of the Province of Quebec took the form of two Acts, 38 Vict., chap. 62 and 64, the former respecting the union of certain Presbyterian Churches; the latter is styled "An Act to amend the Act intitled, 'An Act to incorporate the Board of Management of the Temporalities Fund of the

Presbyterian Church of Canada in connection with the Church of Scotland." Chap. 62 of the 38 Vict., Quebec, with the exception of the section relating to the Temporalities Fund, was substantially the same as the Ontario Act, 38 Vict., Chap. 74, but there were a few points of difference. The Ontario Act bestowed all the above-mentioned privileges on "the Presbyterian Church in Canada," while the Act of Quebec bestowed them on the body so named "or any other name the said Church may adopt." The Quebec Act also declared that the union of the four Churches was to take place from the publication of a notice in the *Gazette* to the effect that the articles of union had been signed by the moderators of the respective Churches. The Act transferred almost the whole of the Temporalities Fund over to the new Church, and confided its management to a Board constituted in a manner entirely different from the Board under the old Act. The condition of union in Ontario was accomplished, and the notice appeared in the Quebec *Gazette*. The appellant, Mr. Dobie, a minister of the Presbyterian Church in Canada in connection with the Church of Scotland, refused, with others, to concur in that fusion, and he petitioned for an injunction to prohibit the Board, as now constituted, to deal with the Temporalities Fund. The Court dissolved the injunction, and its judgment was upheld on appeal by a majority of the judges of the Court of Queen's Bench for Quebec. Hence the present proceedings.

For the appellants it was contended that the statutes 38 Vic., c. 62 and 64 (Quebec) and 38 Vic., c. 75 (Ontario), were, in respect of the provisions material to the case *ultra vires* and illegal, and that the Act 22 Vic. c. 66 (Canada), was in force and binding on the respondents. The Board was at present illegally constituted and the individual respondents had no right to act as members of it. "The Presbyterian Church in Canada" was not identical with "the Presbyterian Church of Canada in connection with the Church of Scotland," and was not entitled to its rights, property, and status, nor was its General Assembly identical with the Synod of the latter church. The ministers, members and congregations, who refused to join in the act of union, and were now organized under the name of "the Presbyterian Church of