

when nominated were bound to rule not according to the will of the Synod, but according to the duties imposed by the Act of incorporation. And what was prescribed in this Act? That certain money amounting to about

HALF A MILLION OF DOLLARS

should be held as a permanent endowment for the Presbyterian Church of Canada in connection with the Church of Scotland for all time. This fund was created by the ministers of the church surrendering their personal rights to an annuity of \$600 per annum, representing the amount they were personally entitled to receive from the sale of the clergy reserve lands. To endow the church permanently they individually gave up all the capital and consented to accept a reduced annual allowance of \$450. This they did on the fundamental conditions, which they declared the Synod would never have the power to alter, that the fund should be for the permanent benefit of the Church, and that seceding ministers would lose all rights in it. In 1875 the majority of the Church united with other bodies and formed the Presbyterian Church of Canada. The minority stood firm, continued the old Church, and now say to the seceders; You may unite with whom you choose, but you have lost your rights by secession in the Temporalities Fund, which must go for the benefit of the old Church. This old Church was in active existence, had fifteen ministers and thirty-four congregations, and this year received a delegate from the Church of Scotland, by which it was recognized. The Board was bound to administer for the minority who adhered to the trust.

The Local Parliament of Quebec amended the act referred to. Under the original act only the revenues or interest of the fund could be used, under the new act the Board were allowed to consume the capital, and they had in fact apart from interest

CONSUMED THE CAPITAL

to the amount of \$75,000 in five years. The Quebec Act contemplated the annihilation of the old church and provided that the balance of the fund should go to the new church. The Quebec Act also disfranchised petitioner from being a member of the Board to administer the trust he and others created, though the old act allowed this. The Quebec act

VIOLENTLY INTERFERED WITH HIS RIGHTS

by declaring that only members of the Union Church could be members of the very board petitioned and others created. This was a deprivation of civil rights that rendered the act unconstitutional. His eligibility as a member of the Corporation was destroyed. His franchise was taken away. This was not a restricted right enjoyed in the Province of Quebec alone, it was inter-provincial, and

COULD NOT BE DESTROYED

by local legislation. Again, the origin of the property in issue must be looked to. It had no particular *situs*. It was not an individual building or property that was in dispute, but a large sum of money, the outcome of the bounty of the Crown, the proceeds of clergy reserve lands distributed through the old provinces of Upper and Lower Canada. The proceeds of these lands might be invested anywhere; their *locale* was not necessarily in this province. They might be invested here to-day and to-morrow in Ontario. Their *locus* could be best determined by their destination, which was over the two provinces of Upper and Lower Canada. They could not be classed as civil rights peculiar to a province. He submitted that the Quebec Act was unconstitutional, and should be set aside. The petitioner wished his claim to be asserted vigorously, but without ill-will to his brethren who had joined the union, to whom he accorded all sincerity of motive.