

gagee, and this decision the House of Lords (the Lord Chancellor and Lords Macnaghten, James, and Lindley) have now affirmed, not without some expression of dissatisfaction with the result by the Lord Chancellor.

TRUST—CHURCH—IDENTITY—FUNDAMENTAL DOCTRINES—UNION OF CHURCHES—RIGHTS OF AMALGAMATED BODY—DISSENTIENT MINORITY.

*General Assembly of Free Church v. Overtoun* (1904) A.C. 515 is the cause celebre regarding the rights of the Free Church of Scotland to property of that church which by the votes of a majority of that church had been purported to be transferred to a new church composed of members of the United Presbyterian Church and the majority of the members of the Free Church, which united body is known as "the United Free Church." A dissentient minority of the Free Church had persistently refused to consent to the union, and no statute had been passed vesting the property of the Free Church in the new body. The appellants, who were substantially the dissentient minority, but who claimed to be now "the Free Church," contended that they were the proper custodians of the property of the Free Church; the Scotch Court of Session decided against them, but the House of Lords (Lord Halsbury and Lords Macnaghten, Davey, James, Robertson, Lindley and Alverstone) after hearing the case twice argued, have reversed the decision of the Scotch Court and given judgment in favour of the appellants (Lords Macnaghten and Lindley, dissenting). In arriving at this conclusion their Lordships lay down the principle that the identity of a church consists in the identity of its doctrines, creeds, confessions, formularies and tests, and on a comparison of those of the United Free Church with those of the Free Church, their Lordships found such divergencies as precluded them from saying that the two bodies were identical; and on the principle established by the well-known case of *Craigdallie v. Aikmen*, 2 Bli. 529, they held that it was a breach of trust to divert the property of the Free Church to the uses and purposes of the new body. We may remark that though the decision has come with a painful surprise to a great number of Scotch people, and has involved them in sore straits, yet they have vindicated their character as a law-abiding people and have patiently bowed to the decision. It is to be earnestly hoped that some legislative means may be found which, while amply protecting the just rights of the minority, may, at the same time, give reasonable effect to the wishes of the majority of the former members of the Free Church. It certainly seems surprising that steps were not taken to secure statutory sanction for the union before it was carried out.