

confessions in evidence, but says, correctly, that it has never been solemnly decided: Steph. Evid. Art. 117 and Note xlv."

THE TEMPORALITIES FUND CASE.

The case noted at 3 Legal News, p. 250, *Dobie v. Board for the Management of the Temporalities Fund of the Presbyterian Church of Canada in connection with the Church of Scotland*, has been argued before the Judicial Committee of the Privy Council, in pursuance of leave to appeal obtained, (3 Legal News, p. 308.) The hearing occupied three days, and judgment has been reserved. There were present Lord Blackburn, Lord Watson, Sir Barnes Peacock, Sir Montague Smith, Sir Robert Collier, Sir Richard Couch, and Sir Arthur Hobhouse. From the *Times* of the 16th July we take the following summary:—

This was an appeal from a judgment of the Court of Queen's Bench for the Province of Quebec (Appeal Side) of the 19th of June, 1880, affirming a judgment of the Superior Court of Lower Canada.

Mr. Horace Davey, Q.C., Mr. McLeod Fullarton, and Mr. Donald Macmaster (of the Canadian Bar) were counsel for the appellant; Mr. Benjamin, Q.C., Mr. Jeune, and Mr. J. L. Morris (of the Canadian Bar) for the respondents.

This was admittedly a very important case, in which the appellant, the Rev. Robert Dobie, by means of a writ of injunction, contested the right of the respondents to the management of a large amount of property. It also involved intricate questions arising out of the distribution under the British North America Act, 1867, of the legislative powers attributed to the Canadian Parliament, and to the local or provincial Legislatures respectively. The facts, as briefly stated by Mr. Justice Ramsay, were these:—Prior to 1875, there existed a religious body known as the Presbyterian Church of Canada in connection with the Church of Scotland. It did not owe its existence to any charter or statute, but it grew out of the settlement in Canada of Presbyterians in communion with the Church of Scotland. But if no statute defined precisely the limits, rights and privileges of this body, numerous statutes acknowledged its existence, and the right of its clergy to share in the lands, known as the "Clergy Reserves," was admitted. When, by process of legislation, the

share of the clergy of the Church of Scotland in Canada became fixed, an Act of the Legislature of United Canada was obtained (22 Vict., chap. 66) to make provision for the management and holding of certain funds of the Presbyterian Church in connection with the Church of Scotland, "now held in trust by certain commissioners, hereinafter named, and for the benefit hereof, and also of such other funds as may from time to time be granted, given, bequeathed, or contributed thereto." The body so incorporated was the Board of Management, the present respondents. This Act being still in force, in 1874 numerous clergymen and others, members of different Presbyterian Churches in Canada, deemed it desirable to unite their ecclesiastical fortunes and henceforward to form one body, to be called "The Presbyterian Church in Canada." Application was made almost simultaneously to the Legislatures of Ontario and Quebec for authority to give effect to this determination, and to enable the new body to deal with the property of the churches so united. An Act of the Ontario Legislature (38 Vic., ch. 75) was passed, the preamble of which set up that:—

"Whereas the Canada Presbyterian Church, the Presbyterian Church of Canada in connection with the Church of Scotland, the Church of the Maritime Provinces in connection with the Church of Scotland, and the Presbyterian Church of the Lower Provinces, have severally agreed to unite together and form one body or denomination of Christians, under the name of 'the Presbyterian Church in Canada,' and the Moderators of the General Assembly of the Canada Presbyterian Church, and of the Synods of the Presbyterian Church of Canada in connection with the Church of Scotland, and the Church of the Maritime Provinces in connection with the Church of Scotland, and the Presbyterian Church of the Lower Provinces, respectively, by and with the consent of the said General Assembly and Synods, have by their petitions, stating such agreement to unite as aforesaid, prayed that for the furtherance of this their purpose, and to remove any obstructions to such union which may arise out of the present form and designation of the several Trusts or Acts of incorporation by which the property of the said churches, and of the colleges and congregations connected with the said churches,