

tered by a board incorporated by statute of the heretofore Province of Canada." Section 9 deals 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 authorizes the new body to take gifts, devise and bequests; and lastly, section 11 declares 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 in the Province of Quebec took the form of two Acts, 38 Vic., cap. 62 and 64, the former respecting the union of certain Presbyterian Churches; the latter is styled "An Act to amend the Act intituled '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.'"

Cap. 62 of the 38 Vic., Quebec, with the exception of the section relating to the Temporalities Fund, is substantially the same as the Ontario Act 38 Vic., cap. 74. One or two differences it may, however, be well at once to note. The Ontario Act bestows all the above mentioned privileges on "The Presbyterian Church in Canada;" while the Act of Quebec bestows them on the body so named, "or any other name the said Church may adopt." The Quebec Act declares that the union of the four churches is to take place from the publication of a notice in the *Quebec Gazette* to the effect that the articles of union have been signed by the Moderators of the said respective Churches. The Quebec Act has also a section which, harmless in itself, is suggestive of the utmost confusion of ideas. It is as follows:—"In so far as it has authority to do so, the Legislature of the Province of Quebec hereby authorizes the Dominion Legislature, and the several Legislatures of the other Provinces to pass such laws as will recognize and approve of such union throughout and within their respective jurisdictions."

The other of the Acts of Quebec can hardly be called an amendment of the former Act of the old Province of Canada, for it transfers almost the whole of the temporalities fund over to the new Church, and confides 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 has appeared in the *Quebec Official Gazette*.

The appellant, a minister of the Presbyterian Church in Canada in connection with the Church of Scotland, refused to concur in this fusion, and he petitioned for an injunction to prohibit the Board as now constituted to deal with the temporalities fund. The Court below has dissolved the injunction: hence this appeal.

The statement in respondent's factum, "that the petitioner and the seven ministers who continue with him outside the said union, have no right to continue the said Presbyterian Church of Canada in connection with the Church of Scotland, and that in fact they are dissentients, voluntarily separated from the said charge," is calculated to mislead. Whatever the legal effect of the proceedings may be, whole congregations have voluntarily separated themselves from the said Church, if the eight ministers have. But whether the non-conformists be 8 or 8,000 is of no importance, except for the purpose of sensation. The rights of the few are as sacred in the eye of the law as the rights of the many.

A theological argument originally complicated the issues in the case; but the learned Judge in the Court below very properly, I think, dismissed it from his consideration. If we were to admit such a line of discussion we might be called upon to decide whether "The Presbyterian Church in Canada in connection with the Church of Scotland" was or is an orthodox body. This mode of circumscribing the argument evidently wounds the sensibilities of the respondents, who perhaps would be as much shocked at the idea of a majority vote absorbing their new union into the Church of Rome, as the Rev. Mr. Dobie is at the metamorphosis which respondents contend has now taken place. And therefore during the argument at the bar we were informed that the Church of Scotland had sanctioned or approved of the fusion in question. I only refer to this to show in what inextricable difficulties we should be involved if we were to allow ourselves to be decoyed from the legal question, to the consideration of questions, the interest of which cannot be over-