

"The United Church of England and Ireland is not a part of the Constitution in any Colonial settlement, nor can its authorities, or those who bear office in it, claim to be recognized by the law of the Colony otherwise than as the members of a voluntary association."

In the first of these judgments it is stated that

"The Church of England, in places where there is no Church established by law, is in the same situation with any other religious body, in no better but in no worse position, and the members may adopt, as the members of any other communion may adopt, rules for enforcing discipline within their body, which shall be binding on those who expressly or by implication have assented to them."

In the third of these judgments Lord Romilly stated that

"When a Colony possessed an established Legislature but no established Church, the Church of England was a mere voluntary association, in the same sense as any other religious association; and the members of it might agree to adopt any rules for discipline; which would, when adopted, bind them."

Since the United Church of England and Ireland is not a part of the Constitution of this Province, the Church of England in New Brunswick cannot be a part of the Church of England as by law established in England (except so far as it is made such by the voluntary consent of its members) unless it be so as the result of some special statutory provision making New Brunswick an exception to the general rule applicable to Colonial settlements.

It is undoubted that the Crown alone has no power to make any such provision, nor has it in any measure attempted to do so in New Brunswick.

The Imperial Statute Book is silent as to the establishment of the Church in any Colony.

The General Assembly of New Brunswick has of late years studiously viewed the Church of England in this Province as in the same situation with any other religious body, in no better but in no worse position: And the only Act of Assembly in force affecting the position of the Church provides merely, first, that no person shall be capable to be admitted to any ecclesiastical benefice until ordained according to the form and manner by law established in the Church of England; secondly, that every person having any benefice shall once at least in every month read the Church Service and (if there be occasion) administer the Sacraments, under the penalty of five pounds; and thirdly, that any such person who shall openly use in any place of public worship any other form of prayer shall, on conviction, be *ipso facto* disabled to officiate, and the Governor may present to his benefice as if the person so offending were dead.