

cap. 64. In December, 1878, the Rev. Robert Dobie, who, with the other members of the protesting minority of 1875, and their adherents, maintains that they alone represent and constitute the Presbyterian Church of Canada in connection with the Church of Scotland, instituted, by petition to the Superior Court for Lower Canada, the proceedings in which the present appeal has been taken. The leading conclusions of the petition are to have it adjudged and declared (1) that the Legislature of Quebec had no power to alter the constitution of the Board or the purposes of the trust created by the Canadian Act, 22 Vic., cap. 66, and, consequently, that the administration of the trust, as carried on in terms of the Provincial Act of 1875 is illegal; (2) that the protesting minority of the Synod of 1875, and its adherents, are now the Presbyterian Church of Canada in connection with the Church of Scotland, and that certain ministers of the United Church, who were members of the majority, had, by reason of the union, forfeited all right to participate in the benefits of the Temporalities Fund; and (3), to have an injunction against the Board as then constituted, acting in prejudice of the rights of the appellant, and others beneficially interested in the statutory trust of 1858. Upon the 31st December, 1878, the appellant's application was heard before Mr. Justice Jetté, who made an order for summoning the respondents, and also issued an *interim* injunction, which the learned Judge dissolved, after fully hearing both parties, on the 31st December, 1879, and at the same time dismissed the appellant's petition, with costs. This decision was an appeal to the Court of Queen's Bench for Lower Canada, affirmed, in accordance with the opinions of the majority of the Judges.

The judgments of Mr. Justice Jetté in the Court of First Instance, and of Chief Justice Dorion and Mr. Justice Monk in the Court of Queen's Bench, are based exclusively upon the competency of the Quebec Legislature to pass the Act 38 Vic., cap. 64, and the consequent validity of that statute. On the other hand, Mr. Justice Ramsay and Mr. Justice Tessier were of opinion that the appellant was entitled to an injunction, on the ground that the Act 38 Vic., cap. 64, was invalid, and that the majority of the Presbyterian Church of Canada in connection with the Church of Scotland had no power to communicate any interest in the Temporalities Fund of that Church to the religious bodies with whom they have chosen to unite themselves in 1875. Mr. Justice M'Cord was of opinion, with his brethren Ramsay and Tessier,