ENDOWMENTS

OF THE

CHURCH OF SCOTLAND IN CANADA

EVIDENCE

OF

MR. DOUGLAS BRYMNER

BEFORE

THE SENATE COMMITTEE ON PRIVATE BILLS,

In opposition to the Bills for transferring the said Endowments to the Presbyterian Church in Canada.

24TH AND 26TH APRIL, 1882.

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CHURCH OF SCOTLAND IN CANADA.

The following evidence, given before the Private Bills Committee of the Senate of Canada, needs little explanation. A majority of the Synod of the Presbyterian Church of Canada in connection with the Church of Scotland, resolved in 1874 to join three religious bodies and to form a new organisation, to be called the Presbyterian Church in Canada. Before they would do so, however, they sought and obtained Acts from the Provincial Legislatures enabling them to take possession of the properties, funds and colleges of the Church they were leaving. The Rev. Robert Dobie, acting on behalf of the adherents of the Church, raised a suit to set aside the Provincial Acts, the suit being finally decided by the Judicial Committee of the Privy Council in favour of Mr. Dobie, in January, 1882. Application was then made by the unsuccessful litigants, to the Parliament of Canada, for Acts practically to legalise the Provincial Legislation and to override the decision of the highest Court of the Empire by which that was set aside. How these Acts were carried may be best told in the words of the Rev. George Grant, who constituted himself the Mercury (a god of very varied attributes) of those who had left the Church of Scotland in Canada, and desired to take possession of the property of her adherents. The statement was written immediately after his return from a successful lobbying, in the course of which, and covertly in the Committee of the House of Commons, he had threatened that at the approaching general election every member would be bitterly opposed who refused to pass the Bills sought for. The picture, not a flattering one, is thinly veiled under pretence of a general attack on party government. The reverend gentleman says :—

"I have described members of Parliament as they are when discussing any general measure. But there is another side to the

picture. Let the matter they are discussing be one affecting party actions, and they become as different from their normal condition as night is from day. Intellect is suppressed, conscience hushed, good sense is banished, and good manners cease. Everything that makes men worthy of respect is sacrificed to the great god party. What must be the effect from this blinding of the intellect, this twisting of the conscience, this lowering of high ideals, this gradual destruction of self-respect? From first to last it is evil, evil only continually. There is scarcely a question to which every member is not committed before the discussion is commenced. There is really no discussion at all. Discussion means an actual effort to ascertain the truth, or what is best for the country. But all that a caucus considers is: How will it immediately injure or benefit the party? This being decided, there commences an elaborate suppression of unpleasant evidence, and a systematic mystification of facts."

STATEMENT

BY

MR. DOUGLAS BRYMNER

TO THE

COMMITTEE ON PRIVATE BILLS OF THE SENATE OF CANADA.

OTTAWA, Monday 24th April, 1882.

Mr. DOUGLAS BRYMNER, who appeared as representative of the congregations of the Church, being called upon, said: "Not being a professional speaker, I would beg the Committee to exercise as much forbearance as possible, if I do not present my argument as clearly as a practised lawyer would do. I am neither a lawyer nor a minister, but a plain elder of the Church of Scotland, trusted honestly to present the case of my brethren, and accustomed to the quiet of my office and study, not to the discussion publicly of either this or any other question. I want to speak the exact truth, and to get it out I am willing, indeed anxious, to answer every question if my points are not made clear. All I ask is, and I think, sir, you will admit it is a reasonable request, that I shall not be subjected to unnecessary interruptions nor to unreasonable questions. Let me remind the Committee, Mr. Chairman, that they are by the present Bills asked to deal with trusts which have been secured by legislation for certain objects, to be carried out by a certain named class of people, and in a certain prescribed way. Let me say, further, that these bills must, at least should be, decided on principles which affect faith to obligations, the perpetuity of tenure, the validity of contracts, and the sanctity of trusts. The Bills practically ask Parliament to sit as a Court of Review over the Privy Council, which declared that the people represented by Mr. Dobie in the suit against the Temporalities' Board are *prima facie*, as the title to the Bill itself declares, beneficiaries under the Trust; and to decide that they are lunatics, minors, or aliens, not capable of holding their own property or administering their own affairs. These, the Committee will pardon me for pointing out, are the subjects to be considered in dealing with the Bills, all of the Bills, now before you. I don't want to detain you, sir, with preliminary observations, but you will, perhaps, allow me to lay down two propositions with respect to the Synod. First, then, the Synod, ecclesiastically, is the Supreme Court of

the Church, acting under a definite, rigid, and unalterable creed, any contravention of which can be checked by any one member of the Church, though he be not a member of the Synod, the moment that affects him in his rights as a member of the Church. The second is, that the Synod, civilly, is a mere committee or supervisory Board, whose functions are to preserve and guard the temporal interests of the Church, and to prevent the alienation of the Church's property by the Trustees through whose medium it is held, and it has no power to alienate the property itself. The Committee will observe that these propositions reach the pretensions of the promoters of the Bills at once. They have over and over maintained that majorities rule in everything, that the Synod is the Church, and has the whole power inherent by the mere force of a majority to do anything it likes. There surely, sir, is nothing to justify such a statement, and I think the able argument of our learned counsel, Mr. Macmaster, has fully shown that any one man can enforce the terms of a trust. He cannot claim the property. That is a perversion. All along we have been sneeringly told that the nine men who remained out, it is not a very kindly way of speaking of the faithful ministers who have adhered to us, to the people for whom they minister, emphatically to the Church of Scotland in Canada, let it be denied as often as those who have seceded from it may, these nine men, I say, could not take the property, but any one member of the Church, whether he is a layman or a minister, can enforce the terms of the Trust, and compel the Trustees to administer as the terms direct. The determination of these Trusts would be settled by the decision of the question of who adhered to the original creed, to the designation and to the connection of the Church. If the majority destroyed the complete identity in all, or in any of these, they would be unable to enforce their will on the minority, be they few or many. Let me state here, before proceeding further, that the persistent use of the word Church, when only the Synod is meant, is not warranted by fact. The Church is one thing, the Synod of the Church is the deliberative body created by the Church, and so far from the extinction of the Synod involving the extinction of the Church, there is not the slightest need, so far as its existence is concerned, of a Synod at all, of a Church Court at all, or even of a minister. Our own Church existed for many years without either Presbytery or Synod, and might have continued to exist to this day in the same way, which I will show at the proper time. Let me, however, refer this Committee to a judgment in appeal in the Court of Session in Scotland, the opinion of the Court being delivered by the Lord President. In this case the Reformed Presbyterians, the Covenanters, had a division, as we have had, the majority joined the Free Church, as the majority in our case has done. The majority declared that the minority had seceded from the Church because

the majority bound all to submit, exactly as the majority in our case is doing. The majority declared they had full power to join another body, as the majority in our case declared, and that the Reformed Presbyterian Church existed in the Free Church, as the majority in our own case declares our Church does in the Presbyterian Church in Canada. The case arose in connection with claims on a fund called the Ferguson Bequest Fund, and the Court held that the minority was the Reformed Presbyterian Church, exactly as the Courts held in our case, that we are the Presbyterian Church of Canada, in connection with the Church of Scotland. The Lord President, after tracing the history of the Covenanters, or Reformed Presbyterian Church, says :—

"The important facts for the present purpose are, their having remained steadfast and united for sixteen years without a minister, and for more than half a century without a presbytery, to which must be added this fact also, that it was more than 120 years after the Revolution before they succeeded in establishing a synod."

A MEMBER.—What is the date of that case ?

Mr. BRYMNER.—The date of the judgment is the 16th January, 1879, and it is published in the *Glasgow News* of the next day. The copy I have was sent me by one of the minority synod of the Covenanters. His Lordship continues :

"In these circumstances it would be a contradiction of historical fact to say that no one can be held to belong to the body and to profess its principles, who does not acknowledge the authority of the Reformed Presbyterian Synod, which was constituted for the first time in 1811."

Hon. Mr. BOYD.—But they joined another Church holding different doctrines.

Mr. BRYMNER.—The honourable member will, I am sure, pardon me if I say that the point I am trying to make has nothing to do with doctrine. They might have joined the Hindoos. I am trying to show that a Church can exist without a Synod or even a minister, and believe the Court of Sessions says so. If I may be allowed to point out to this Committee, our case should be treated like any other civil case, for it is only in its civil aspect you can deal with it. But the decision of the House of Commons appears to have been given on ecclesiastical grounds, and on statements that the Synod had full power to do with this fund what a majority liked, so long as the Synod proceeded constitutionally, and next, that the Synod observed all the constitutional safeguards prescribed by its own constitution. I feel the impropriety of bringing some of these questions before a legislative Committee, and am quite prepared to hear objections raised to my discussing them. But I ask you, sir, to remember that we have not raised these questions, and that we believe them to be such as should be settled by the Courts ; but having been used to carry the Bills, and it having been distinctly laid down in the Committee of the House of Commons, and appa-

rently assented to, that if we could show that the Synod did not act constitutionally according to its own laws, the Bills could not pass, we think we are fairly entitled to be heard on these as on all other aspects of the questions before your Honourable Committee.

Mr. J. L. MORRIS.—Who laid down that? My belief is that it was laid down differently.

Mr. BRYMNER.—I believe it was the Hon William McDougall; indeed, I might say positively it was, but any way the Committee appeared to accept of it.

Mr. MORRIS.—That is contrary to my belief.

Mr. BRYMNER.—If the Committee would allow me, then, I may state that I propose, before taking up the real points on which this should be decided, to dispose of the outlying pretensions of ecclesiastical gentlemen, and the plea that everything was done decently and in order. The statement that all the proceedings towards union were conducted in accordance with the constitutional law of the Church I at once challenge. Don't let me be misunderstood. I don't admit that these gentlemen had any power whatever to set aside Trusts, but admitting for the moment that they had, then they violated all the laws of the Church by the way they went about it. First, then, the proposal was introduced without an overture. In June, 1870, as will be seen by the official minutes of the synod of the Presbyterian Church of Canada, in connection with the Church of Scotland, to which I belong, and whose people I am representing.—

A MEMBER.—What year did you say?

Mr. BRYMNER.—The year 1870; the page is 30 of the minutes of that year. Well, in June, 1870, the Rev. Dr. Jenkins, one of our ministers, produced and read a letter from Rev. Dr. Ormiston, a minister in the Canada Presbyterian Church (the Free Church) suggesting the appointment of a committee to consider the question of union; a committee was appointed, and that this was the sole reason of the appointment is proved by the first report of the committee on union, to be found at page 114 of the minutes of 1871. There was an opportunity to have made the action legal, so far as the technical rules were concerned, for an overture was sent from Lindsay three days after the appointment of the committee, but dismissed, as the committee had already been appointed. Now the law on this subject, ecclesiastical I mean, of course, is positive. There can be no subject whatever discussed unless it is introduced by way of overture.

A MEMBER.—What do you mean by an overture?

Mr. BRYMNER.—That is one of our difficulties in discussing questions, when the very terminology of the subject is unknown. An overture is the initiation of all action in our Church Courts. You are all aware that no money bill can be introduced into the Commons except by letter from His Excellency the Governor-

General, that resolutions are founded on that, and then follows the bill founded on the resolutions. That, without going into technicalities, is the meaning of an overture, which, I trust, is satisfactory.

The CHAIRMAN.—Certainly; go on.

Mr. BRYMNER.—Before going further, I would like to lay before your Honourable Committee, the ecclesiastical law on this subject. At page 34 of the Synod minutes of 1859 are these rules, or standing orders:—

"I. A motion shall not be competent unless proposed in reference to a subject regularly introduced to the Court by petition, bill, appeal," &c.

"IV. A motion shall not be competent if in any way, implied or expressed, it contravenes any doctrine, public act, or standing order of the Church. The only way in which any public act or standing order may be competently modified or suspended, shall be by the introduction of an overture or petition through the Committee of Bills and Overtures, which overture or petition must detail fully the circumstances in which, and the reasons for which, any modification of the terms or temporary suspension of the operations of any public act or any standing order is required."

Perhaps, sir, the Committee would allow me to call attention to the significant omission of the word "doctrine" in the second part of the standing order I have just read. The rule says that a motion shall not be competent if in any way, implied or expressed, it contravene any doctrine, public act or standing order of the Church. That is positive. It then shows how public acts or standing orders—rules and regulations,—that is, may be changed, but it does not withdraw the prohibition against the contravention of doctrine, whether that be implied or expressed. That should, so far as doctrines are concerned, settle the question as to the powers of majorities in our Synod, whatever powers others may claim.

A MEMBER.—These are very technical points. Is there any use detaining the Committee with these?

Mr. BRYMNER.—No doubt they are very technical and very tiresome, and had only technical violations of the rules been committed, I should certainly not venture to occupy your time, sir, with such trifling matters. But what I propose to show is, that these technical rules being violated, a very serious damage was inflicted on the Church. If you would only bear with me for a little, while I lay the foundation for my argument, I think I can show you that the evils caused were real, and not that there was a mere technical omission causing no harm. May I proceed?

The CHAIRMAN.—Certainly; I think, gentlemen, we should get all the information we can. I, at least, desire to do full justice to the opponents of these bills, which are very important to a great many people.

Mr. BRYMNER.—The next rule I call attention to is one laid down in 1869, by which it is provided that papers of every description, without exception, intended to be submitted to the Synod, must

be laid before the committee on business; and accurate intimations of their contents must be forwarded to the Synod Clerk, at least four clear days before the meeting of Synod. Now, I trust that this Committee will follow the course of what took place. The contents of that letter from Dr. Ormiston to Dr. Jenkins should have been ascertained; they should have been reported on by the committee on business; the subject of it should have been on the printed docket of business, so that every member should know what was proposed and be prepared for discussion. But without notice, the letter was suddenly produced and read, late at night, with very few present; a committee was appointed and the work was done, scarcely a soul knowing what had taken place. We are told that the subject was for years before the members of the Church. But he would be a bold man who could say that more than a dozen men, out of a certain circle, knew a word of it. The proceedings were conducted in the most private manner. The papers took little notice of them, but the moment anything practical was suggested, then opposition was shown. Surely, with all these facts before you, it cannot be said our objections are mere technical quibbling. But the next step was worse. It has been repeated and repeated that the people were asked to decide on the question of union and did so. They were never asked. The question was never submitted. The Basis of Union itself shows this.

It being one o'clock, the Committee adjourned till Wednesday, the 26th.

WEDNESDAY, 26 April, 1882.

Mr. BRYMNER resumed his statement, and after briefly reviewing the points he had discussed, said I stated on Monday, that the question of Union never was sent to congregations. It was not sent even to Presbyteries and Kirk Sessions. Let me briefly tell the Committee how these things ought to be done, when any change in rules and regulations is to be made. The remits, as they are technically called, should go from the higher to the immediately lower church court—from Synod to Presbytery, from Presbytery to Kirk Session, from Kirk Session to Congregation. By a return movement, any complaint comes back as it went down, and is decided below, subject to appeal in the ascending series. In this case, the remit was sent direct, with the practical result I shall show. The basis itself is evidence that the question of Union was never submitted. The basis was twice sent down. The first in 1873, is headed: "The following is the basis of Union agreed upon by the Synod at its last meeting, and sent down to congregations for approval." In the official return there is the following statement, in reference to one of the congregations——Clarke. It says, "attendance small. Had the question been Union or no

Union they would not have been unanimous." In the church at Ottawa, to which I belonged, I asked if there was to be no discussion on the subject of Union, and was answered by the chairman that it had been decided that no discussion should be allowed but that we must vote yea or nay on the basis. To show how much could be learned of the mind of the people from answers to the questions let me read the first. "The Scriptures of the Old and New Testaments, being the Word of God are the only infallible rule of faith and manners." If the congregations did not want Union, they must answer no to such a truism among Christians. If the answer was yes, then the congregation had decided for Union. I moved a substantive motion to bring the real question up, which was ruled out. I have the newspaper report of what took place, if any one challenges it. I then tabled a protest, and Mr., now Judge, Ross and myself advised those who agreed with us not to vote, and the newspaper report says I left the church with a number of others, and Union was carried unanimously. I appealed to the Session, which declined to discuss the appeal, on the ground that the remit was sent direct to the Synod. I obtained a certified extract of the resolution and went to the Presbytery with the same result. Armed with both certificates, I went to the Synod, which declined to deal with my complaint, on the ground that it was not regularly transmitted. I ask the members of the Committee, sir, with this statement before them, if I am carping at slight technical irregularities. In June, 1874, the basis was changed, and was sent down as before in terms of the Barrier Act. If there is any law in our Church more carefully observed than another it is this. Its express purpose is to prevent hasty changes in the least important of our rules—not of our doctrines and constitution, which cannot be changed. By that Act, no change, however slight, can be made without great care and after at least a year's delay—that is from one regular annual meeting of Synod to another. Well, in terms of the Barrier Act, the question could not come up till June 1875. The dominant party had resolved not to close the meeting in June, 1874, but to adjourn it till November. The Synod then met by adjournment, the constituent members in June, being, of course, the constituent members in November. A strict law of our Church is that the roll of members of the Synod, being our highest ecclesiastical court, can only be altered at the annual general meeting, but to make this appear to be a new meeting, a new roll was ordered to be prepared, although the major part of the Presbyteries had not sent theirs in, the Roll of Synod being made up from the Rolls of Presbyteries. Against this decision protest was entered. The Synod was, then, an illegal meeting, yet it voted to break up the Church, and resolved to get legislation to secure the property.

Hon. Mr. POWER.—Have you the law relating to the election of representatives ?

Mr. BRYMNER.—The law is that representative elders are to be elected within two months after the annual meeting of Synod. It is in the minutes, but I really forget the year it was passed. It is so well known that any one belonging to our Church can confirm what I say. Mr. Gordon, you are perfectly aware that that is the law.

Rev. Mr. GORDON.—I decline to make any statement on the subject.

Mr. BRYMNER.—The only effect of that is to cause a little delay whilst I look it up.

The CHAIRMAN.—I don't suppose any one doubts the gentleman's word, go on, please.

Mr. BRYMNER.—That meeting in November 1874,because the roll was changed, was, then, an illegal meeting; and the one in June, 1875, was also an illegal meeting because there was no election subsequent to November, 1874. Under the Barrier Act the question could not have come up for settlement before June,1875, but by that time the whole matter had been settled, legislation had been got,and the majority of the Synod moved off to join another church. Let me point out now the effect of these violations of the law. According to the official return of the votes in June, 1874, there voted for Union, that is voted that certain truisms were facts, 10 Presbyteries, 88 Sessions and 107 Congregations. But so soon as the real discussion began there was a marked change. Instead of 10 Presbyteries voting yea, only 8 did so by majorities, and 3 declined to send returns, the fair inference being in this that they could not vote that the statements in the basis were not true, yet they did not want to break up their Church. Instead of 88 Session voting yea, only 80 did so, 12 voted nay and 46 made no return. Instead of 107 congregations voting yea, only 95 did so, 10 voted nay, and 45 made no returns. It is stated by our opponents that out of 150 congregations, only 10 voted against Union, but here is their own official return showing that only 95 voted for Union, whilst 55 voted nay or declined to vote.

A MEMBER.—Where are these congregations now? Have they not since accepted Union.

Mr. BRYMNER.—The Committee, sir, will find that 33 congregations have petitioned against the bills, the 7,000 signatures being those of *bona fide* adherents of the Church of Scotland in Canada. It must be remembered that the Union Acts declared every congregation in the Union, and those refusing it must fight their way out. Every congregation, almost without exception, which tried to get out was attacked by a law-suit, and finally they were advised not to spend their money till the Temporalities' suit was settled, as by the decision in that case we expected that the Acts would be declared worthless. The Committee will pardon me, if I give one illustration. The congregation at Bayfield were attacked. They lost their case upon some technical plea as to the

way the meeting was called, thereby lost their church and were saddled with $800 of costs. Now, be kind enough to observe, the people who got the church had never belonged to it and never contributed a dollar to building it. On the other hand, so anxious were those who built it to have it free of debt that one young lady who had received $50 as a birthday present to buy a silk dress, asked her mother's leave to give that to the building fund of the church; the mother not only consented, but gave herself a similar amount. Yet these people you are asked to declare to be no longer members of the Church to which they belong. In the Synod itself 88 voted for Union in June, 1874, whilst at the illegal meeting in Nov. 1874, only 68 voted for it. It is true that in June, 1875, there appear 90 votes for Union, but that was after legislation had been got, which they were told could not be set aside. Now, sir, I think I have proved that the proceedings were not constitutional; that they were in complete violation of the laws of our Church, and that the objections I have made are not made to mere technical omissions, but to such as affect and vitiate in essentials the whole course of proceedings. Let me now call attention to the remarkable actions of the majority which say they took the Church with them. By the Bill now before you, sir, they ask you to authorise the payment in perpetuity of $2,000 a year to Queen's College, and to give power to capitalize that amount at once, and they state that this is in accordance with the original Act of Incorporation of 1858. I have looked into that Act in vain for any such power. I find by the By-Laws of the Temporalities' Board, that authority is given to the Chairman and Treasurer to pay £500 ($2,000) a year to the Treasurer for the time being of Queen's College, to be employed, as heretofore, in the payment of Professors being ministers of the Church." But the $2,000 in the Bill is an additional sum of $2,000, not authorised in any way, a complete violation, in fact, of the Act of Incorporation. The proof is easy. In 1864, Mr. Snodgrass became Principal of Queen's College, and applied for a grant of $2,000 over and above the sum to be paid for the allowances of Professors being ministers of the Church. The answer was in these words. I am reading from the official minutes of the Board.

"The case of the application of Queen's College was taken up, when the Board agreed to record their understanding:

"1st.—That the commutation of stipend, whether made by ministers having charges, or being Professors, having been personal, the stipend derived from it should continue to be enjoyed by those who commuted while they continue in the service of the Church, whether in charges or in the college.

"2nd.—In the event of there being commuting ministers in Queen's College whose stipends, together amount to £500 per annum, no additional payment shall be made to the college by the Board.

"3rd.—In the event of there not being commuting ministers in the college receiving salary from the Board to the amount of £500 per annum, the Board shall make up the deficiency."

Now, the amount in June, 1875 when the break up took place, payable to Professors being ministers of the Church, was $1,950, leaving $50 more to make up the $2,000. So far as the accounts show, the payment of $1,950 has continued, plus the illegal payment of $2,000 making in all $3,950 which you are asked to sanction, and this additional $2,000 a year you are asked to secure by letting the authorities of Queen's College draw at once from the fund a capital sum of upwards of $33,000. Not satisfied with this, authority was also taken to pay Morrin College $850 a year, representing a capital sum of about $14,000, or in other words, you are asked to sanction a withdrawal from the already dilapidated capital of $47,000 for payments which are entirely illegal.

Having dealt with the question of procedure, let me call the attention of the Committee to certain statements of the promoters of the Bills, before I go to the root of the matter. They state, it is, in fact, stated under oath, that in all Presbyterian churches, majorities rule and minorities must submit. Where is the proof of what the Privy Council calls "a startling proposition?" Are these gentlemen talking of a christian church, or of a horde of communists? Christianity itself is founded on principles the very reverse of this, and the Church of Scotland is too scriptural a Church to hold so unchristian an error. It might be held, by taking detached passages, that the Free Church hold this view, as, for instance, in the claim of rights, where they hold that Church courts can by majorities and by their own inherent power interpret the laws of the land, and by the protest lodged before the majority, as they held, left the church of Scotland and formed a new Church. The seceders state in that protest, that the Civil Courts held, that they have power to supersede the majority of a church court of the establishment, that is of the Church to which we belong. If the promoters of the Bill hold that majorities rule in every thing, it is an additional proof that these gentlemen have adopted the doctrines of the Free Church. In every deliberative body a majority rules in matters within its competency, that is, in ordinary matters of management.

A MEMBER.—Do you maintain that a majority does not rule in all Presbyterian bodies?

Mr. BRYMNER.—Would you allow me, it is a privilege Scotchmen have, to answer one question by asking another? Parliament decides all questions by majorities. Can Parliament set aside the Confederation Act of 1867 by any majority? There is no such power in majorities as these gentlemen assert. In ordinary affairs of management, majorities decide, but our creed—the Confession of Faith—is rigid and unalterable. May I ask the Committee, sir, to think what the proposition means? Now we have a steadfast creed, but if the new rule laid down be correct, then our beliefs are at the mercy of any chance clerical majority, which can regulate our faith and compel us to accept new dogmas,

under penalty, if we refuse to follow them in their vagaries, of being driven out of our churches, and losing all our church privileges. We go to bed at night holding one set of doctrines, we rise next morning bound to hold a totally different set, because the clerical majority of a Synod chooses to decide so. It won't do to say in this case there has been no change—that may or may not be so, but the power of majorities is, by the theory absolute, and can enforce any change. It has been asked with a sneer, and constantly repeated, suppose one man remained, would he represent the Church ? I say, emphatically, yes. Surely in a Christian community and dealing with a Christian Church we may appeal to the Bible, our rule of faith. It is singular how often the despised one man appears. The one man at Mount Carmel, against 850; the one man at the fatal union of Jehosaphat and Ahab, against 400, into whom a lying spirit had entered. Principal Grant lays it down as the law that in our Church majorities always rule, and he further told the Committee that his Providence was the voice of the people. By that law, in the last sad week of our Saviour's life on earth, had Principal Grant formed one of the multitude thronging to see the entry of our Lord into Jerusalem on a colt, the foal of an ass, he would have been bound to throw up his cap and shout Hosannah, but he would have been equally bound to have cried out with the same mob, "Away with him, crucify him." What a wise old man John Bunyan was. He has a vivid portrait of just such a man as Principal Grant, Mr. By-ends, in the "Pilgrim's Progress." Here are that gentleman's maxims: 1. We never strive against wind and tide; 2. We are always most zealous when religion goes in his silver slippers; we love much to walk with him in the street, if the sun shines and the people applaud him. That gentleman believed in majorities. His Providence was the voice of the people.

Hon. Mr. BOYD.—There is a large portrait gallery by Bunyan. There is Mr. Perversity for instance.

Mr. BRYMNER.—Yes, we can all find our portraits there. A little touch of Ithuriel's spear would make us think our own rather distorted from what we believed them. But let me quote what the Privy Council says on this point. Their Lordships state that the respondents maintain, by the second of two objections, that the appellant (Rev. Mr. Dobie acting for the Church) is barred from challenging the Act of 1875, by the resolutions of the majority of the Synod, which are said to be binding upon him and continue,

"The second objection is derived from the resolutions in favour of union carried by the majority of the Synod of the Presbyterian Church of Canada, in connection with the Church of Scotland, on the 14th June, 1875. The Quebec Act, 38 Vic., cap. 64, deals with the Temporalities' Fund in conformity with these resolutions, and it is the contention of the respondents that the appellant is bound by the resolutions, and cannot, therefore, impeach

the statute which gives effect to them. That is a startling proposition. . . . . It may be doubted whether a court of law would sustain such an obligation, even if it were expressly undertaken ; but it is unnecessary to discuss that point, because their Lordships are of opinion that the respondents have failed to establish that the appellant as a member of the Presbyterian Church, in connection with the Church of Scotland, undertook any obligation to that effect."

With such a decision and with all that can be adduced, it would need the strongest, clearest proof that any such power exists in majorities in our Church. Has there been any produced ? I know of none. I can say positively that there is none. The next point to which I wish to call attention is a very singular one, in a country in which all semblance of connection between Church and State has been declared at an end. The people who have joined another Church declare that they have made no change in doctrine. How can we discuss theological points before a civil Committee which does not undertand our doctrines ? Even many professed Presbyterians do not understand and have never studied the doctrines regarding which they pretend to speak. We are told that we ought to unite because we have a common Presbyterianism. What do people understand by that vague expression—a common Presbyterianism ? It is simply a form of church government. It has nothing positive to do with doctrines. On the one side stands the Church of Scotland, to which we belong, on the other, thirty or forty different Presbyterian sects. One Honourable Senator admitted on Monday that different bodies of Presbyterians held different doctrines, which so far is evidence of the correctness of my statement.

Hon. Mr. BOYD.—I said that they held different views.

Mr. BRYMNER.—I understood the honourable gentleman to say different doctrines, but if they hold different views of doctrine, it practically comes to the same thing. If, however, we ought to unite by virtue of a common Presbyterianism, surely members of this Committee who have a common Episcopalianism ought also to unite, for a similar reason, and show us a good example. Suppose adherents of the Greek Church and the Roman Catholic Church should have a question like this before Parliament, would it be necessary for them to discuss the *filioque*, the doctrine of the procession of the Holy Spirit, or failing in this, that the minority should lose its rights. Is it not notorious that these are two distinct Churches ? Is it not equally notorious that our Church and the Church that the promoters of the Bills have joined are two distinct and separate Churches ? The Roman, Greek, Anglican, Episcopal Methodist, and the latest born, the Reformed Episcopal, all call themselves Catholic, as we do. On the ground of a common Catholicity, should we not all be compelled to join as you are trying to compel us to join a mass of Presbyterian sects. Dissenters in Scotland, by a similar process of reasoning, should be compelled to join the Church of Scotland ; and Roman Catholics in

England have no right to exist out of the Church of England. The reasoning is as good in the one case as in the other. It was tried in Scotland, not successfully; it has been tried in Ireland with little encouragement to continue the experiment. Scotchmen are not to be coerced in matters of this kind, and I think, sir, most people will admit, they are a hard lot to try such force with. But whilst I point out the impropriety of expecting such discussions, I am not afraid to face them. I have no intention of entering on a theological exposition, but this Committee will, I hope, be satisfied if I show a change in obligation. In 1844, the first secession from our Church in Canada took place, when those we are asked to join left, declaring that our Church was no longer a Church of Christ, but a mere creature of the State. These people left behind a protest. Part of this I am going to read, and I ask the Committee to hear the extracts patiently. The preamble to this protest says:—

"Whereas the Church, as the divinely constituted Depository and Guardian of Revealed Truth, is specially bound to lift up her testimony for those particular truths which are at any time endangered or overborne by the antagonist powers of the world;

"And Whereas those great and fundamental truths which respect the supremacy of Christ in His Church, the spiritual independence of her rulers, their exclusive responsibility to her Great Head, the rights and privileges of His people, and the proper relation which should subsist between the Church and the State, are at the present day endangered, and have actually been overborne in the Established Church of Scotland through recent encroachments of the State, upon the spiritual province, submitted to by her."

A MEMBER.—What have we to do with these quarrels?

Mr. BRYMNER.—I don't think, Mr. Chairman, that the Committee has anything to do with them, but I submit, that our opponents. having made certain allegations, we must meet them. The protest goes on:—

"And Whereas the Synod of the Presbyterian Church of Canada, in connection with the Church of Scotland, apart from all considerations of a general kind, which should have led them to testify against the defections and corruptions of the said Established Church, were specially bound to do so, because of their connection with said Church;

"And Whereas, the due and proper testimony against the defections and corruptions of the said Established Church of Scotland was a termination of the peculiarly close and intimate connection in which the Synod stood to her;

"And Whereas it has been in an orderly and constitutional way proposed to this Synod, having been made the subject of petitions and overtures of congregations and presbyteries, whilst it has been advocated by many of the members, that this Synod should terminate its connection with said Church, and alter its designation accordingly;

"And Whereas, this Synod, by the vote of a majority of its members, came to the decision that it shall not terminate said connection, nor take other such action as is required."

These two last clauses, sir, should settle, I think, the question as to whether there existed or not, a connection with the Church

of Scotland of a very close character, although one line torn from the context is used by our opponents to prove there never was any. But if the Committee give me time, I shall come to that point afterwards. There are seven reasons given in the Protest. I shall quote two.

The Synod refused to sever its connection with the Church of Scotland, and upon that point the Protest says :—

"First.—That in our conscientious conviction, this Synod are thereby giving their virtual sanction to the procedure of the Established Church of Scotland in the great questions at issue between that Church and the Free Protesting Church of Scotland, and lending the weight of their influence, as a Church, to the support of principles which are incompatible with the purity and liberty of any Church by which they are allowed—and which are fitted at the same time to do grievous injury to the cause of the Redeemer throughout the world.

"Fourth.—That by leaving an open door for the admission of ministers and elders from the Established Church of Scotland, holding unsound views on the great principles aforesaid, they have most seriously endangered the purity of the Church, and brought even her independence into peril, through the probable introduction of Office-bearers, prepared to submit to the same encroachments of the Civil Power by which the Church of Scotland has been enslaved."

Well, sir, I am one of these elders whose admission was so carefully guarded against. I was an elder in a parish in Scotland, and for twenty-five years I have been an elder in the Church of Scotland in Canada. I have brought all these dangerous doctrines with me, and am expected without explanation or withdrawal of the charges to submit meekly to enter a Church which refuses to receive me and my brethren.

A MEMBER.—It is the duty of a Christian to forgive.

Mr. BRYMNER.—I only follow the example of that true Christian gentleman, St. Paul, who when publicly scourged and dragged to prison at Philippi, refused to come out privily, but insisted that the magistrates should publicly atone for the outrage publicly committed. There stands the record of the charge against us. Let that be as publicly withdrawn as it was made, but that must first be done before there is a possibility of even speaking about union. The Protest further goes on :

"Wherefore for all these and other reasons, we SOLEMNLY PROTEST to this venerable court, before God, the Church of Christ, and the world, that it is our conscientious belief that in respect of the premises, sin in matters fundamental has been done by this court ; and that while at the same time we continue to adhere to the Confession of Faith and other Standards of this Church, we can yet no longer, with a clear conscience, hold office in the Presbyterian Church of Canada, in connection with the Church of Scotland."

Before I go further, let me point out that in 1844, when the first secession took place, the motion to sever the connection with the Church of Scotland was to make the severance by giving up the designation "in connection with the Church of Scotland, and that the peculiar connection which has hitherto subsisted between

them and the aforesaid Church of Scotland shall from this time forth cease and determine, and that any peculiar privileges that may have been understood to belong in virtue of that connection to her ministers and elders seeking admission into this Church, shall, in like manner, be withdrawn." May I ask the Committee to observe that the promoters of the Bill followed exactly the line marked out for them by their predecessors in secession. They abandoned the designation "in connection with the Church of Scotland," and are now known, that is notorious, as the "Presbyterian Church in Canada," and the basis of union shows that all privileges have been withdrawn from ministers and elders of the Church of Scotland. It is not corroborative only, but is clear and direct proof of their secession. The Church of Scotland, then, was charged with holding Erastian doctrines.

A MEMBER.—What do you mean by Erastian doctrines.

Mr. BRYMNER.—The doctrine that the Church was a mere machine in the hands of the State; that the civil magistrate could control its whole action, order the administration of the sacraments, and so forth. It was a rebound against the unlimited pretensions of the clergy, and as usual, went from one extreme to another. I need scarcely say that our Church, the Church of Scotland, never held such a doctrine; although, for effect, it was charged with holding Erastian principles, and part of the obligation taken by those who first seceded was in reality a denunciation of the Church to which we belong. I engaged to show that there had been a change of obligation in respect to our creed. Let me then refer, first to the formula, or obligation, to be signed by every minister and elder of our Church. There is no need to trouble you, sir, with more than the first clause, which says:

"I,————, do hereby declare that I do sincerely own and believe the whole doctrine contained in the Confession of Faith, approved by the General Assemblies of the Church of Scotland, and ratified by law in the year 1690, and frequently confirmed by divers Acts of Parliament since that time, to be the truths of God, and I do own the same as the confession of my faith, &c."

That is the formula I signed at my ordination as an elder. The formula to be signed, before the formation of the New Church, by the members of the Free Church, or Canada Presbyterian Church, which we are asked to join, is:

"I,————, do hereby declare that I do sincerely own and believe the whole doctrine contained in the Westminster Confession of Faith, as approved by the Church of Scotland, in the year one thousand six hundred and forty-seven, to be the truth of God, &c."

We are told that there is no change in doctrine because both we and those who left adhere to the whole Confession of Faith. How many can tell, or even think of, the meaning of the omission in the second formula. Why, it indicates a difference as high as Heaven between the two Churches, between the constitutional position of the Church of Scotland, observing the due re-

lations between the functions of the Church and State, and the pretensions of the Free Church to what is called spiritual independence, that is, in reality, ecclesiastical supremacy. In the questions put to office bearers at ordination the one in our Church is: "Do you disown all Popish"—(A laugh.) you see, sir, that we must disown all errors, Arian, Socinian, Armenian and Bourignian doctrines, &c. (Laughter.)

A MEMBER.—What are Bourignian doctrines?

Mr. BRYMNER.—A set of doctrines very much in vogue now-a-days. They come from the old alliance between the French and the Scotch. They are so popular now that, I suppose, on the theory that majorities rule, the Free Church did not like to insist on an obligation against them, so they substituted the word Erastian for Bourignian, as a safe popular exchange. The Bourignian doctrine is, that a man may be a christian without having faith or exhibiting it by good works. This question was changed, as I have just said, by the Free Church, who after the other errors to be disowned, given in the questions I have just read, expunged the word Bourignian and substituted Erastian—that is, took an obligation from their office-bearers, that they would have nothing to do with the Church of Scotland—that is the plain meaning of the change. Principal Grant has stated that the explanatory clause in the second article of the basis of union is merely a gloss, and that a law is not changed by an explanation. He says the statement is true and that they would have been very stubborn had they refused to accept that clause as a true explanation of a point on which there were differences of opinion. That is, at least, ingenious, but the esoteric, the hidden meaning of that clause is, that those who made the charge against us in 1844 of holding pernicious doctrines, insisted that the charge was true, and that those who had joined it since then must purge themselves by an explicit denial that they held the doctrines the Church was charged with holding in 1844. That is the meaning of this innocent gloss. Principal Grant is very fond of analogies. Let me use one in this case. A jealous lover, engaged to be married, insists that before the marriage takes place his betrothed shall make an open, public and solemn declaration that she is pure and innocent. The prospective bride could no doubt truthfully state so, but it is not likely that any marriage would take place under the circumstances. Well, it may be said that an obligation was taken in both cases to own and believe the whole confession of Faith, but another change was made when these people joined the new Church into which we are invited—the Presbyterian Church in Canada. The formula in that Church is :

" I hereby declare that I believe the Westminster Confession of Faith, as adopted by this Church in the Basis of Union.

If there was no change of Creed, that is in the Confession of Faith,

or in the interpretation of the Confession of Faith, why was this most extraordinary change in the obligation respecting it introduced. It took years to come to a compromise of the principles held by one, or by both churches. It is surely fair to ask if there has been no change made by the promoters of the Bill when they joined the new Church, who did make a change? Has the Canada Presbyterian Church abandoned its distinctive principles? Have these who left us and joined that Church done so? One or both must have changed, but as for us, we have made no change, we remain the same as we have always been and refuse to acknowledge that either we or our Church have been guilty of the sins laid to our charge by those whom we are to be compelled to join, if these laws can compel us.

A MEMBER.—Why did so many ministers go into union, then?

Mr. BRYMNER.—Well, I don't exactly like to use the word that would describe the process. I will tell you what took place. It was proposed to secure to every minister of our Synod, whether entitled to be on the Fund or not, $200 a year for life. My friend Mr. McLean, when the question came up, pointed out that the fund would not allow of it, and the clause was withdrawn. The ministers declared that unless the two hundred dollar annuity was secured to them, they would not vote for the union, and in the evening the clause to secure that was restored. It is for the Committee, sir, to give that process a name—I must be excused from doing so. I now come to the question of the identity of the new Church with the Presbyterian Church of Canada in connection with the Church of Scotland. When that point was raised, Principal Grant made a flippant analogy, saying that a man did not lose his identity by marrying, and when reminded that it was a case of marrying three wives, he flung back the retort that Solomon had married more than three wives and yet had not lost his identity. Analogies are dangerous things, and in this case it seems to me that the true analogy would be that of a married man with a family, who took up with three strange women, deprived his wife of her support, declared his children illegitimate, and denied them the name they were entitled to bear. As for Solomon, his wives led him from the true worship to a change of doctrine; and I only hope that these gentlemen may repent as bitterly as did the once wise king who was led away by forming illicit connections. (Laughter). But you are told, sir, that this identity is proved by the declarations of the Churches, and Principal Grant stated that the first thing done by the United Church was to declare itself identical with the Presbyterian Church of Canada in connection with the Church of Scotland. I see that the learned principal has changed that in his "revised version," in which he is made to say simply that it was read aloud. I have here, Mr. Chairman, the official minutes of the first General Assembly of the United Church, which shows a very different state of things from that described

by Principal Grant. The Canada Presbyterian Church (the Free Church) first declared that the new Church was identical with it; then followed the Synod of the Presbyterian Church of the Lower Province, declaring the new Church identical with it; then the majority of the Synod of the Presbyterian Church of the Maritime Provinces in connection with the Church of Scotland, declaring the new Church identical with it; and last of all the majority of the Synod of the Presbyterian Church of Canada in connection with the Church of Scotland, declaring the new Church identical with it. Things that are equal to the same thing are equal to one another. But here were four dissimilar things not only equal to one common thing, but all identical with it, whilst at the same time that they were each identical with it, they were all different from each other. The Athanasian creed is an easy handbook for infant readers as compared with this. I remember, sir, that some few years ago there was a young coloured woman with two heads, known as the two-headed nightingale, who sang duets all by herself.

Hon. Mr. SUTHERLAND.—I think such comments are uncalled for, and that you should merely give your evidence.

Mr. BRYMNER.—I was flattering myself that I had been very sparing of comment, and had stuck closely to my argument. I appeal to you, Mr. Chairman, if I have trespassed in any way, or indulged in irrelevant talk. It is sometimes convenient to draw a parallel, and it places any speaker at a serious disadvantage to be hampered by rules not imposed on our opponents.

The CHAIRMAN.—for myself, gentlemen, I think the speaker has not violated any rule. All I would say to you, sir, is not to occupy more time than you can help, and in this case I do not, so far, see any fault to be found.

Mr. BRYMNER.—Well, sir, in this case we have a four-headed monster, a full quartette. The chorus begins "we are identical," the solo of each Church takes up the strain, reciting its own name; uniting again in the one grand chorus—"and possesses the same authority, rights, privileges and benefits to which this Church is now entitled," and winding up with the very, very base solo by the majority of the Synod of the Presbyterian Church of Canada, in connection with the Church of Scotland, "excepting such as have been reserved by Acts of Parliament." There is no such case on record since the days of Ananias and Sapphira, who pretended to lay the price of their possessions at the feet of the apostles—with a similar reservation. Having, I hope, proved that even if the Synod had the power our opponents maintain it had, to destroy the constitution of the Church and destroy the Trusts under which its property is held, the majority did not do so constitutionally, according to the rules of the Church itself; that majorities have no power to alter the doctrines or constitution of the Church; that there are differences of doctrine among

the religious organizations known as Presbyterian, and especially between the Church of Scotland and those we are asked to join; and that by joining the new Church, those who did so, lost their identity with the Presbyterian Church of Canada, in connection with the Church of Scotland. I shall now take up the real points that, I feel, should have been presented, and which we presented in their legal aspect before this Committee and before the Committee of the House of Commons. It is from the ecclesiastical point of view that I have been called on to speak, and I shall try to stick closely to that. The first, then, is the relation of the Synod to the fund, which, I maintain, was one of supervision only, the Synod having neither proprietorship in it, nor control over it, the sole power of the Synod being to see that the Trustees acted according to the terms of the Trust and did not alienate or misappropriate the funds for which they were responsible. Now, sir, may I ask you to look at the terms of the Act of Independence, of which so much has been made, to prove that there never was any connection with the Church of Scotland, by virtue of one line, taken from the context, the context itself having no reference whatever to the Church, but only to the Synod or committee created by the Church to watch over its interests. Let me ask you to notice the exact terms of this Act, which is called "An Act declaring the Spiritual Independence of the Synod of the Presbyterian Church of Canada, in connection with the Church of Scotland." The Act goes on :—

"Whereas this Synod has always, from its first establishment, possessed a perfectly free and supreme jurisdiction over all the congregations and ministers in connection therewith ; and although the independence and freedom of this Synod, in regard to all things spiritual, cannot be called in question, but has been repeatedly and in most explicit terms affirmed, not only by itself, but by the General Assembly of the Church of Scotland, yet, as in present circumstances, it is expedient that this independence be asserted and declared by a special Act.

"It is therefore hereby declared, that this Synod has always claimed and possessed, does now possess, and ought always, in all time coming, to have and exercise a perfectly free, full, final, supreme and uncontrolled power of jurisdiction, discipline and government, in regard to all matters, ecclesiastical and spiritual, over all the ministers, elders, Church members and congregations under its care, without the right of review, appeal, complaint or reference, by or to any other Court or Courts whatsoever, in any form or under any pretence ; and that in any case that may come before it for judgment, the decisions and deliverances of this Synod shall be final. And this Synod further declares, that if any encroachments on this supreme power and authority shall be threatened, by any person or persons, Court or Courts whatsoever, then the Synod, and each and every member thereof, shall, to the utmost of their power, resist and oppose the same."

I shall take up the definition of the connection in its proper place, but I ask you, sir, to notice that the Church is never once referred to in the whole of this declaration. Stripped of all verbiage, it simply means that the Synod, as a Church Court, can enforce ecclesiastical discipline in regard to its members ; that, if

for instance, it comes to a decision with reference to a breach of ecclesiastical law, or a charge of immorality or any other offence charged against any of its members, that there is no appeal to any higher ecclesiastical Court. That it gave neither proprietorship in nor control over the fund in question, is evident from the very terms of the resolutions come to in January, 1855, when the fund was proposed to be constituted. The Synod "entreated" the ministers commuting to grant powers of attorney to the commissioner, to draw their commutation money from the Government, "as to a measure by which, under Providence, not only their own present interests will be secured, but a permanent endowment for the maintenance and extension of religious ordinances in the Church." The view then was, that the money belonged to the individual ministers, and they were "entreated" to give it for a permanent endowment to the Church. I need not dwell on that point now, as I hope to prove it by other evidence. The functions of Synods and Councils are defined in the thirty-first chapter of the Confession of Faith, which we all accept, but which, I suppose, there is no necessity to detain the Committee by reading.

Hon. Mr. TRUDEL.—If you have it there, perhaps you had better read it.

Mr. BRYMNER.—The third and fifth clauses of the chapter are those which specify the functions of Synods, but as it is not very long, perhaps I had better read the whole chapter. It says :—

"I. For the better government, and further edification of the Church, there ought to be such assemblies as are commonly called Synods or Councils.

"II. As magistrates may lawfully call a synod of ministers, and other fit persons, to consult and advise with about matters of religion; so if magistrates be open enemies of the Church, the ministers of Christ, of themselves, by virtue of their office, or they, with other fit persons upon delegation from their churches, may meet together in such assemblies."

The next clause shows what are the subjects to be brought before these assemblies.

"III. It belongeth to the Synods and Councils ministerially to determine controversies of faith, and cases of conscience, to set down rules and directions for the better ordering of the publick worship of God and government of His Church; to receive complaints in cases of maladministration, and authoritatively to determine the same; which decrees and determinations, if consonant to the Word of God, are to be received with reverence and submission, not only for their agreement with the Word, but also for the power whereby they are made, as being an ordinance of God, appointed thereunto in His Word.

"IV. All Synods and Councils since the apostles' times, whether general or particular, may err, and many have erred; therefore they are not to be made the rule of faith or practice, but to be used as an help in both.

"V. Synods and Councils are to handle or conclude nothing but that which is ecclesiastical; and are not to intermeddle with civil affairs, which concern the commonwealth, unless by way of humble petition, in cases extraordinary; or by way of advice for satisfaction of conscience, if they be thereunto required by the civil magistrate."

I think, sir, that this chapter scarcely supports the pretentions of the promoters of the Bills before you. Instead, however, of arguing upon the terms of the definition, it will, perhaps, be better for me to show the interpretation the Synod itself put on its powers and how it regarded the teachings of this chapter. After the Synod, in connection with the Church of Scotland, had been formed, Sir John Colborne wanted the allowances from the Clergy Reserve to be paid over to it, and placed under its control. This control the Synod refused to accept, the resolution passed in 1836 being in these terms:

"And it is further submitted, whether the Synod, as being a Spiritual Court, ought not to decline the distribution among its members of any bounty the Government may be pleased to confer, which ought to be managed by the Government itself as heretofore, or by lay commissioners appointed for that purpose."

A similar resolution was passed in 1837, which I need not read, unless any one asks me. I have taken these two resolutions somewhat out of chronological order, which I prefer to follow, unless, as in this case, adherence to it would destroy the clearness of the proof I am anxious to give. Mr. Morris, the learned counsel for the promoters of the Bills before you, sir, stated that our Church was formed in consequence of a letter from Sir George Murray, Colonial Secretary, to Sir John Colborne, Lieutenant-Governor of Upper Canada; that it was formed on his authority to be a Union Church in which were to be included all Presbyterian ministers in Canada, of all sects, and that acting on this direction a union of all these ministers did take place. The argument was, in fact, that being founded as a Union Church the present Union is the logical outcome of that. Now, sir, I don't feel that I would be proud of belonging to a Church created by a Colonial Secretary through a Lieutenant-Governor. As a matter of fact the Church existed in Canada from a time shortly after the cession in 1760. When the Clergy Reserve allowances were granted to the ministers of the Church of Scotland on the ground of belonging to one of the national Churches, Presbyterian ministers, not entitled to a share in the Reserves, were constantly applying also. To get rid of the trouble and annoyance of dealing with individual cases, Sir George Murray suggested that a Presbytery or Synod should be formed, to be a means of communication between the Government and ministers, and to recommend those who should receive assistance from the Government, in the same way as Roman Catholic priests were recommended by the Catholic Bishop. Sir George suggested that all Presbyterian clergy should be admitted to this Synod, if such a measure could be accomplished, and Mr. Morris says the suggestion was complied with. But, however able Mr. Morris may be as a lawyer, he is not thoroughly up in ecclesiastical history. Had that learned gentleman looked down the page from which he quoted, he would have found the answer given by

the members of the newly formed Synod immediately following the suggestion, that whilst they recognised the convenience to the Government of the plan of union proposed, they "think it inexpedient to proceed to the consideration or formation of a connection with any Presbyterian ministers not in communion with the Church of Scotland, until they shall obtain further information." A couple of minutes will, if the Committee do not object, dispose of the statement that our Church was founded as a Union Church, and that these gentlemen who have left us are carrying out that intention. The body which the Colonial Secretary recommended should be united with the ministers of our Church into one Synod, was known as the United Synod of Upper Canada. It was chiefly composed of ministers from the North of Ireland, whose congregations in Canada were adherents, nearly all, of the Church of Scotland, because we had not a sufficient number of ministers to occupy these charges. It was on that ground their claim to the Clergy Reserves was really made. They attempted to frame a Basis of Union, but were told that the only ground of admission would be adherence to the standards of the Church of Scotland and the signing of the obligation prescribed by that Church. A few of them were admitted on complying with these terms, and to show the control exercised by the Church of Scotland over the Synod, in respect to the admission of members, I would ask the Committee to look at the memorial sent with respect to these ministers. In a resolution dated 9th October, 1834, our Synod agreed "to memorialize the General Assembly (that is of the Church of Scotland) in the most respectful but urgent manner, soliciting that such members of the United Synod as may have been already admitted, be recognised as ministers of this Church." It need scarcely, I think, be pointed out, that the Church of Scotland exercised complete control over the Church, whilst leaving complete, free and full jurisdiction to the Synod over its own members, in matters affecting internal discipline. In 1840, the Union, as it is called, took place. There was really no union. The ministers were admitted on taking the vows prescribed by the Church of Scotland; the United Synod and Presbyteries handed over their books and papers; the names of the members were added to the Presbytery and Synod rolls of our Church; there was no change in our constitution, designation, connection or obligations. There was simply an addition made to our numbers. I have shown how very different was the Union of 1875. I hope I am not tiring the patience of the Committee by reading extracts, and so far as I can, I shall avoid doing so, merely stating the facts. I have proofs at hand, if any statement is challenged. But there are two extracts I would ask the Committee to let me read, as they define the position of the Synod, as being formed to be merely a means of communication and not as either proprietors of, or entitled to control the fund which is dealt with in the

Bill before you. In 1831, when the Synod was formed, a communication was sent to the Church of Scotland, one paragraph of which says:

"Your Venerable Assembly knows that there are many external relations and interests of a Church which may be best watched over by a General Court, and that amongst these most interesting to the churches under the jurisdiction of the Synod, is their right to a share in the lands set apart for the maintenance of a Protestant clergy. Your memorialists contemplate that all such relations and interests will be most effectually, as well as constitutionally watched over by the Synod, and that through it an organ of communication between the different ministers and the Government will be supplied,—the want of which the heads of the government have already felt, as may be inferred from a recent despatch from the Right Hon. Sir George Murray, late Secretary to His Majesty for the Colonies, to His Excellency Sir John Colborne, Lieut.-Governor of Upper Canada, a copy of which dispatch was communicated by His Excellency to one of your Memorialists, and is herewith enclosed. These and other obvious considerations appeared to your memorialists to justify their forming themselves into a Synod."

So much for the ecclesiastical authorities. In an address to Sir John Colborne, agreed to on the 13th of the same month and year, the ministers and elders present say, for it is signed by all the members:

"The want of an Ecclesiastical Court to superintend the spiritual interests of our Church in these Provinces, has been long felt, and the formation of such a court will, we humbly trust, through the blessing of Divine Providence, prove instrumental in promoting the great cause of religion and morality. Nor is it, in our estimation, a slight advantage, that the formation of the Synod of the Presbyterian Church of Canada may afford a more direct means of communication with the Government under which we have the happiness to live."

These extracts, sir, support the position I have taken, that the Synod, civilly, is a mere committee of management. I need not detain the Committee, sir, by the proceedings of every year, but it may be well to see the jurisdiction exercised by the Church of Scotland over the Synod, which is denied by our opponents. They say that the Act of Independence of 1844 proves that the Church was always free and independent of the Church of Scotland. We, on the contrary, say that it had nothing to do with the Church; but that it was simply an assertion that the Synod was entitled to deal with its members, in matters of discipline, etc., with no appeal on their part to a higher ecclesiastical court, or, in fact, if taken literally, to any other court. I respectfully ask the Committee through you, sir, to look at the facts. In 1833, the Church of Scotland prescribed that no minister should be received as a member of the Synod, when first formed, who had not been ordained by a Presbytery of that Church, and that members of congregations of the Church in Canada should be received as members of the Church of Scotland, when they came to Scotland. The United Synod of Upper Canada, of which I spoke a few minutes ago, could not be admitted to the Synod without the leave of the

General Assembly and the Colonial Committee, the Executive Committee of the Church, interposed repeatedly to prevent ministers being admitted. It is true that the Committee only gave advice, and much stress has been laid on this word, but I may refer to a significant remark by Sir John A. Macdonald, in the House of Commons, in answer to the Hon. David Mills, regarding the same word, in which he said, speaking of the Privy Council, that their solemn decisions are given by way of advice. The case of a Mr. Grigor, in 1834, is a proof of this. The Colonial Committee advised that he should not be admitted as a minister of the Church, on grounds in no way affecting his moral character, and the Synod, obeyed without dispute or discussion. In 1837, the Synod petitioned the General Assembly of the Church of Scotland for leave to educate young men for the ministry in Canada, a petition which was granted in 1838, the education to be conducted under certain regulations to be prescribed by the General Assembly of the Church of Scotland. In 1840, what may be called Responsible Government was granted. After referring to the formation of Synods and other ecclesiastical judicatories in the Colonies, the General Assembly says: "To the Colonial Churches which have been thus organized, we feel that the spiritual interests of the Scottish population may safely be entrusted—that they no longer require our direct interference—and that whatever benefits we wish to communicate, may best be conveyed through the office bearers of the different Synods or Presbyteries." You will observe, sir, that the same character of the Synod is retained here, as everywhere, that the Synod is a convenient means of communication between those conferring and those receiving obligations. The Assembly further lays it down, "that the right of government should not, in ordinary cases, extend beyond the limits of representation," and that, therefore, the Assembly declines all authoritative jurisdiction, although authorised to address to the Colonial Churches words of counsel and exhortation, of encouragement or reproof. Let me point out also to the words of the General Assembly's Committee in 1844, the very year of the passing of this so called Act of Independence, The Committee says, that they "cannot recommend to the Assembly to comply with the request of some of their transatlantic brethren, by assuming a direct appellate jurisdiction over the Colonial Churches. The Assembly has formerly distinctly declined this, and the Committee are satisfied that they have done so on good and sufficient grounds." What view the Church of Scotland took of the connection I shall show in its proper place. I am aware that all this must be tiresome, but the whole strength of our opponents' case lies in the assertion that this was always a free and independent Church; that the Fund belonged to the Synod and that, therefore, a majority could dispose of it. You will, I hope, allow me to prove in my own way the absolute incorrectness of these statements. The Church had now a Responsible Government, or something akin to it. Did the

bestowal of Responsible Government sever the connection between Canada and Great Britain ? Did the bestowal of Responsible Government sever the connection between the Church here and the Church of Scotland ? I believe I can show that it did not. Well, in 1840 the Imperial Parliament passed an Act respecting the Clergy Reserves.

A MEMBER.—What Act is that ?

Mr. BRYMNER.—The Imperial Act, 3 & 4 Vic., cap. 78., to provide for the sale of the Clergy Reserves. If, as Mr. Morris contended, the clergy reserves were given to the Synod, the Acts would show it. The shares coming to the Church of England and to the Church of Scotland in Canada, are to be distributed in a certain way, and the bodies distributing them, have, it is perfectly apparent, no proprietorship in the fund coming from these reserves. The share to the clergy of the Church of England was to be expended under the authority of the "Society for the Propagation of the Gospel in Foreign Parts," the share to the clergy of the Church of Scotland under the authority of a board of nine commissioners, to be elected by the Synod of the Presbyterian Church of Canada, in connection with the Church of Scotland, under regulations from time to time established by the Governor-in-Council. Did this give proprietorship ? Was there even any idea of control ? Was it not a mere supervision ? The Synod declared itself a spiritual court, and declined to deal with worldly affairs. Certainly there must have been a change since then. The commissioners did not even send their accounts to the Synod ; these were sent to the Government. The Synod respectfully offered suggestions to the Board for consideration, entreated, requested, asked as a favour that the commission would lay copies of the accounts before it. The Synod never spoke as proprietor or even as having control, although now a majority applies for Acts on these grounds. In 1853, another Imperial Act was passed, declaring that when the clergy reserves were secularized, the annual stipend or allowances to the clergy, not to the Synod, of the Churches of England and Scotland, could neither be annulled, suspended or reduced. In 1854, the Provincial Act, authorized by the Act I have just spoken of, provided for the payment of the allowances hitherto enjoyed by the clergy of the Churches of England and Scotland, and authorized the commutation of the annuities, on the ground that it was desirable to remove all semblance of connection between Church and State. The learned counsel for our opponents, Mr. Morris, maintained that the fund belonged to the Synod because of the expression in the last Act, that the Governor in Council might with the consent of the parties and bodies commute. I gave the learned gentleman an opportunity of reconsidering his opinion by calling his attention to the rest of the sentence he was quoting, which is distinctly against his pretensions. On the strength of the expression "bodies," Mr. Morris rests his argument that the Synod is proprietor of this fund. The words of that very Act show the

untenableness of the position. The word "parties" refers exclusively to the ministers, who individually commuted, on presentation of a certificate from the recognised medium of communication, the Synod, or, as was really done, by the intervention of a commissioner, to whom the individual ministers granted powers of attorney. The "bodies" mentioned were the Roman Catholic Church in Upper Canada, and the British Wesleyan Methodist Church for Indian Missions, which were to receive annual allowances for twenty years after passing the Act. In the third clause of the Provincial Act (18 Vic., cap. 2), it will be seen that the parties might commute, at the rate of six per cent. per annum, upon the probable life of each individual; the bodies above specified at the actual value at the time of commutation, that is, for twenty years if done at once, or for any less time, if commutation was deferred. There is no need to detain you with emphasizing that point, but if I am correct, the whole argument of our opponents falls to the ground. Well, in 1855, it was resolved to commute and form a permanent endowment. Mr. Morris says that all the Synod engaged to do was to secure to the founders an annuity of £112.10s. a year, for life, and if that were done, the obligations of the Synod ceased. Well, sir, that is scarcely the meaning usually attached to the formation of a permanent endowment, which the individual ministers agreed to form, at the personal sacrifice of £37 10s. a year for life. That was part of the agreement, but another was in these words.

"It shall be considered a fundamental principle that all persons who have a claim to such benefits shall be ministers of the Presbyterian Church of Canada, in connection with the Church of Scotland, and that they shall cease to have any claim on, or to be entitled to, any share of said Commutation Fund whenever they shall cease to be ministers in connection with the said Church."

The Synod, sir, was simply to see that effect was given to the intentions of the donors, not to defeat them. What these intentions were, and how far a majority of Synod was competent to set them aside, is further proved by the address to the Governor-General, in 1855, after it had been agreed to commute and from the commutation money to form a permanent endowment. It will be noticed that it is the individual ministers who gave their money who are spoken of. The address, after referring to the withdrawal of allowances from the clergy reserves, says:

"In order that this blow may fall as lightly as possible upon the general interests of religion, and more especially of the Church of which we are office-bearers, we desire to avail ourselves of the permission to commute the reserved claims, as provided for in the recent statute to which the Royal Assent has been lately given, it being the desire of those of our number whose pecuniary interests are involved therein, to constitute a fund towards the maintenance and extension of religious ordinances in connection with the Church of Scotland in this Province."

To secure the fulfilment of the Trust, an Act of Incorporation was obtained in 1858, creating a Board of Management for the

Fund, the Board to be elected by the Synod, and to lay before the Synod an annual statement, but the Synod is in no way recognised in the Act as either proprietor or having control of the Fund. If the Board had failed in its duty, or attempted to deal improperly with the Fund, the Synod, before the majority left, could not, as a Synod, have interfered legally. It must have gone to the courts exactly as the Synod did after the majority left to enforce the terms of the Trust by the intervention of an individual having interest, as was the case in the suit taken by Mr. Dobie against the Temporalities' Board. I have little further to say on this point, except to show positively the functions of the Synod. A Committee on Church Property, of which Mr. Alexander Morris was the convener, now the Hon Alexander Morris, ex-Governor of Manitoba, reported, in 1857, that certain congregational properties had been alienated, and recommended that the Synod should petition the Legislature to place the law in such a position that the consent of the Synod should be requisite in all cases of sale of church property. Clearly, then, the Synod had of itself no power over the property, although it was on that pretext the Union Acts were granted. Next year, 1858, the following appears in the report of the same committee, signed by Mr. Alexander Morris and adopted by the Synod on its own view of its powers.

"The Committee are of opinion that it is right and proper that the Church itself should have the right to interpose a check upon the alienation of real property by the individual congregations. It is true, that the property belongs to the congregations, having been given or acquired to secure the administration of the ordinances of the Gospel of that congregation, but nevertheless, the Church as a whole, is interested in seeing that that property is applied to its legitimate purpose, and is not wasted, or dissipated, or alienated, to meet some temporary difficulty, and thus deprive future generations of the boon some benevolent and God-fearing donor had designed to secure for them."

I believe, sir, that I have clearly proved that the Synod had no property in the Temporalities' Fund, or any control over it, to alienate or destroy it, but had the most important work of seeking to maintain and preserve it; that, so far as property is concerned, is the work the Synod has to do, and which it tried to do until these extraordinary pretensions were set up by a majority who wished to form a new Church. In dealing now with the constitution of the Fund, the question of the connection with the Church of Scotland will also be taken up, as the two go together in this case. How are we to deal with these men? they say that so long as they were in the old Church, there was no connection, but now that they have formed a new Church, they say that connection still exists, and the Church of Scotland acknowledges it. Now, sir, I don't pretend to reconcile these statements, but this you all know, that the promoter of the Bills say that there never was any connection with the Church of Scotland, but one of origin, identity of standards, and ministerial and Church communion. Mr. Sandford Fleming, in his printed memorandum, says the con-

nection of the Presbyterian Church of Canada with the Church of Scotland has always been one of filial regard merely. I don't know if the name here given has any meaning, but the Presbyterian Church of Canada is not the name of our Church but of the body that seceded in 1844. Let the statement be taken for what appears on the surface. Principal Grant says the same thing, and I may call the attention of the Committee to the fact that whilst he professes to speak of the Presbyterian Church of Canada, in connection with the Church of Scotland, as his Church, of its funds, as his funds, and of us as having seceded from the Synod represented by himself and others, he never was a minister of that Church, and in spite of all he can say, even if the majority be that Church, is not now a minister of that Church, nor has he the slightest claim on its funds. The words "vicarious argument," used by our counsel, Mr. Macmaster, aptly describe the position of the gentleman who poses as a member of a Church to which he never belonged, although all through his speech he led you to believe so. Dr. Cook swears that there never was any connection, and certainly he ought to know. The statement of these men, then, is this: The Church has always been free and independent, and never had any connection with the Church of Scotland, and is, therefore, uncontrolled in the disposal of its affairs. Next, the Fund in question, is the property of the Synod, which by a majority can do as it likes with it. That is, I think, a fair statement of the case presented by the promoters of the Bills. I have shown, I think, that the Fund was not the property of the Synod, and not even under its control. The connection, I think, can be easily established, in spite of the solitary expression relied on from a document written for a special purpose, and which can best be explained by the interpretation put on it at the time. Did the Church of Scotland consider that it declared a severance of the connection, at the very time, the Synod had been broken in two, because of the refusal to give it up? The General Assembly declared in 1844, when this Act of Independence was passed, that though the relations between the Parent and Colonial Churches were somewhat anomalous, the *bona fide* communion of the latter with the Scottish establishment admitted of being defined with sufficient precision. The people who left our Church here spoke no less distinctly. A committee was appointed by our Synod and by the Synod formed of the Seceders to treat for re-union, and in 1845, the latter committee reported to their Synod, that they had met the Committee of the Synod in connection with the Established Church of Scotland, (these gentlemen were particular in using the word "Established," because they hold the Free Church to be the real Church of Scotland), "that they had found these gentlemen disposed to lay great stress on an Act passed by their Synod, declaring the Spiritual Independence of their Church, but entirely indisposed to entertain any proposal for dissolving the connection between their Synod and the Scot-

tish Establishment, or altering the designation of the Synod, and had thereupon broken off the Conference." These ought to be sufficient to show that, whatever the words mean, they did not mean the severance of the connection with the Church of Scotland. The Government of Canada did not acknowledge any severance, for in answer to a petition from the ministers who seceded in 1844, for a continuance of the Clergy Reserve allowances, on the ground that they maintained unchanged their standards of doctrine, discipline, government and worship, the Government returned for answer that the allowances could not be continued, on account of their new position. Government, in other words, had nothing to do with these things. All the Government asked was, Do you represent the Church of Scotland in Canada? Whatever meaning may now be twisted out of the words describing the connection, I have surely shown what meaning was attached to them when they were written. It is admitted that the Temporalities' Fund was derived from the commutation of the Clergy Reserves, so that I am saved from the trouble of proving it. But I suppose it will be necessary to show for what reason the commuters who formed the fund became entitled to a share of the reserves. I shall, as briefly as possible, run over the leading points of the history of the reserves, and the claims made on them. By the Quebec Act of 1776, there was a permissive clause that out of accustomed dues and rights of the Crown provision might be made for the support of a Protestant clergy, and in 1791 the lands known as the Clergy Reserves were set aside for this purpose. The Church of England claimed them all, as being the national Church of the empire; but in 1819 this claim was disputed by the Church of Scotland congregation at Niagara, and in November of that year, the Law Officers of the Crown affirmed the right of the Church of Scotland to a share, and that these reserves were only intended for the clergy of the two national churches. The Church of Scotland appointed a committee to watch over the interests of the Church in Canada, and in 1825 the Colonial Secretary wrote officially to the convener of the committee, that any congregation applying for a share of the Clergy Reserves to assist in paying its minister must comply with certain conditions, one of these being that they must acknowledge the jurisdiction of the Church of Scotland. In 1831, as I have said, the Synod was formed, the Church having been formed long before. Every year, nearly, from 1819 down to the date of commutation, claims for the reserves were made on the one only ground—identity with the Church of Scotland. I have no intention of detaining you with reading all these, but shall take a few stepping stones. In 1836, in reference to the Rectories Act, it was declared in a series of resolutions, signed by Dr. Cook, of Quebec, to be sent to the King, to the Royal Commissioners, to both Houses of the Provincial Legislature, and to the General

Assembly of the Church of Scotland, that ever since the formation of congregations and the settlement of ministers in connection with the Church of Scotland in these Provinces, they had claimed a communication of all rights, privileges and advantages, equally with the Church of England, by virtue of the Treaty of Union between England and Scotland and of the Constitutional Act of 1791. In 1837, in a letter of instruction to the Rev. Dr. Mathieson, as to the course he is to follow in Britain regarding the interests of the Church, the following occurs: "Clergy Reserves.—You will endeavour to keep alive in the Church of Scotland the interest already expressed in our just claims to a portion of these reserves as belonging to an established Church of the British Empire, co-ordinate with the Church of England." Yet Mr. Sandford Fleming says, in his printed memorandum, that the connection was one of filial regard merely; Principal Grant says the same thing; Dr. Cook swears that there never was any connection. In 1838, a protest was sent from the Synod to the Lieutenant Governor of Upper Canada (Sir George Arthur), the whole of which asserts the claim of the Church here to be put on an equality with the Church of England, on the ground of being an established Church of the Empire. A sentence or two will show this. "We have claimed," says the protest, "as one of the Established Churches of the Empire, as one of the Protestant Churches recognised by the laws of the Empire, to share equally with the Church of England, in proportion to our numbers, in the lands set apart in Canada for the maintenance of a Protestant clergy. In all these respects our claims have been fully admitted." And again: "Satisfied that the principle that we had a right to rank equally with the Church of England as an established Church in Canada, had received the fullest sanction," etc.; and in 1840, the claim was decided by an Imperial Act, which I have already quoted, appropriating the revenue of the Clergy Reserves to the payment of the clergy of the Church of England, and of the Church of Scotland in Canada. Yet we have printed and verbal statements and the sworn testimony of Dr. Cook and others, that there never was any connection. In 1844 came the first secession, and the formation of the Free Church in Canada, under the name of the Presbyterian Church of Canada. In that year (1844) the Act of Independence was passed, one line of which has been made to do duty as evidence that there never was any connection with the Church of Scotland. Seven years after, we come to a most remarkable series of resolutions respecting the Clergy Reserves;—most remarkable, if the statements of our opponents are to be believed. They begin:

"That the Church of Scotland, of which this Synod is a branch, has always believed," etc.

The fourth resolution begins and I crave the attention of the Committee to the words:

"That ever since the formation of this Synod, our ecclesiastical relationship has been acknowledged by the Parent Church, in every way conformable

to her constitution, and our own ecclesiastical independence, and on this ground our ministers and people have for the last thirty years asserted their rights to all the benefits of a connection with her as one of the Established Churches of the British empire. Especially we long pleaded our legal claim to a portion of the lands in Canada, set apart for the maintenance of a Protestant clergy, on the ground of the proper legal import of that designation, and of the Treaty of Union between England and Scotland. The claim made on this special ground, and long resisted by certain parties, was at length adjudicated in our favour, by a unanimous decision of Her Majesty's Judges in England, on a reference made to them by the House of Lords," &c.

What an abyss of fraud you are asked to look into. For thirty years, if the sworn evidence of our opponents is to be believed, our Church by falsehood, fraud and wilful imposition, was obtaining money under false pretences; Dr. Cook swears so, and he ought to know, for he was one of three appointed to draw up a Pastoral address to the people in terms of the resolutions from which I have just quoted. Nor was the Church here alone; the fraud was aided and abetted by our Church in Scotland, by deceiving the Imperial authorites, deceiving the Provincial Government, hoodwinking the community. The thing seems incredible, yet our opponents swear, they do not merely make a rash statement, they swear that the charge is true. During the very time this fraud was being perpetrated, there was an agitation against the Clergy Reserves so violent, that it threatened to rend in pieces, and to destroy the Colony. Yet not one man discovered this enormous fraud. Not George Brown, with his keen and searching intellect saw that the claims of the Church in connection with the Church of Scotland were fraudulent. Yet Mr. Sanford Fleming says there was no connection, filial regard merely; Principal Grant says so; Dr. Cook swears it. Does any sane man believe that these sworn and unsworn statements are true? Are we to acknowledge that our Church, the Church to which we still adhere, in retaining the designation "in connection with the Church of Scotland," was flaunting a living lie upon its forehead? Are we, the ministers and elders of that Church, to admit that our very ordination was a falsehood and that we were so tainted with unsound views, that we could not with safety be admitted into any Christian Church? That there is fraud somewhere seems clear? Is it with us? Let the Committee decide where the fraud lies. Is it with the men who struggled for the Clergy Reserves, when money was to be got by it, or with the men who swear that there never was any connection with the Church of Scotland, when equally there is money to be got by it? Not a finger was ever pointed at our Church denouncing her on this charge, the proof of which would at once have put an end to the Clergy Reserves agitation; it was reserved for those who have left us to publish their own shame to the world, by denying all connection with the Church of Scotland, yet seeking to seize the property of her adherents. Need I go further to test the worth of these men's evidence?

Let me thank you, sir, and this Committee for the patient hearing you have given me, and to leave the question in your hands.

PETITION

TO

HIS EXCELLENCY THE GOVERNOR-GENERAL.

The petition of the undersigned, duly authorised representatives of the Presbyterian Church of Canada, in connection with the Church of Scotland,

HUMBLY SHOWETH:

That by the Quebec Constitutional Act, 1791, a certain portion of the lands of the Crown in Canada, was set apart for the support of a Protestant clergy, these lands being known as Clergy Reserves;

That the revenues of these lands were held by the clergy of the Church of England, in Canada, to be exclusively for their benefit on the ground that that Church was the national Church of the empire;

That in November, 1819, the Law Officers of the Crown, on a reference from the House of Lords, decided that the benefit of these Reserves should extend to the clergy of the Church of Scotland, but not to dissenting ministers, the term "Protestant Clergy" being held to apply only to Protestant clergy recognised and established by law;

That by the Imperial Act, 3 & 4 Victoria, cap. lxxviii., this decision was formally confirmed, and the distribution of the revenues arising from these reserves was, for the clergy of the Church of England, placed in the hands of the Society for the Propagation of the Gospel in Foreign Parts, and for the clergy of the Church of Scotland, in the hands of Commissioners to be elected by the Synod of the Presbyterian Church of Canada, in connection with the Church of Scotland, under rules to be made by the Governor-General of Canada, with consent of his Executive Council, to whom all accounts were to be transmitted, the sole duty of the said Synod, in this respect, being to supply authentic lists of the clergy of the Church of Scotland, in Canada, entitled to share in said benefits, which duty gave the said Synod no proprietorship in or control over the said revenues or the reserves from which they were derived;

That in the year 1844, a secession took place from the said Presbyterian Church of Canada, in connection with the Church of Scotland; those so seceding applied to the then Government of

Canada for a continuance of the benefits from the reserves, on the ground that they had not changed their doctrine, discipline or government, and were answered officially, that owing to their changed relation to the Church of Scotland, they were no longer entitled to any share of the benefits derivable from such reserves ;

That by Imperial Act of 1853, and Provincial Act of 1854, thereby authorised, the Clergy Reserves were secularized, and the claims of the ministers individually on the said reserves were commuted for a certain amount, calculated on the value of the prospective life of each individual minister so commuting ;

That in order to obtain security that only those entitled to such payments should enjoy the benefits of the said commutation, the Government of Canada, in carrying out the provisions of these Acts, decided that no payment was to be made except on certificate from the said Synod of the Presbyterian Church of Canada, in connection with the Church of Scotland, and that, for the convenience of the Government of Canada, the payments should be made to a Commissioner duly authorized by each of the said ministers to receive and pay over to him the sum to which he was individually entitled ;

That the method thus adopted was solely as security to the Government of Canada, that no individual should receive benefits from the said reserves who was not a minister of the Church of Scotland in Canada, but gave to the said Synod no proprietorship in or control over the moneys thus arising ;

That the said individual ministers resolved to create a permanent endowment for the benefit of adherents of the Church of Scotland in Canada, out of the proceeds of the commutation to which they were individually entitled, under a solemn obligation. as expressed in these words of the original agreement: "That all persons who have a claim to the benefits of this endowment shall be ministers of the Presbyterian Church of Canada, in connection with the Church of Scotland, and that they shall cease to have any claim on, or be entitled to, any share of said Commutation Fund whenever they shall cease to be ministers in connection with said Church ;"

That in 1858, a Board for the management of this fund, known as the Temporalities' Board, was incorporated by Act of the old Province of Canada, to hold the said fund in trust for the benefit of the said Church, the sole duty of the Synod of said Church in relation to the fund being to elect the trustees and exercise a general supervision so as to prevent the alienation or misappropriation of the said fund ;

That in 1874 and 1875, Acts of the Local Legislature were obtained to set aside the provisions of the said Act of Incorporation of 1858 on the application of a majority of the said Synod who had resolved to join other religious bodies and to form a new Church ;

That the said majority obtained these Acts, and also Acts to set aside the terms of an Act incorporating a Board of Trustees to hold a fund called the Ministers' Widows and Orphan's Fund of the Presbyterian Church of Canada, in connection with the Church of Scotland, and also an Act to set aside the terms of the Royal Charter of Queen's College at Kingston, on the ground that a majority of the Synod could by a vote determine, vary and set aside the terms of the Trusts by which the property of the said Presbyterian Church of Canada, in connection with the Church of Scotland, is held and administered;

That the Lords of the Judicial Committee of the Privy Council have declared explicitly in their judgment in the appeal of the Rev. Robert Dobie *v.* the Temporalities' Board, that the Synod has no such power, and that even if every member of said Synod agreed to submit to an undertaking to this effect, that no court of law would sustain such an obligation;

That the trusts and colleges are not the property of the said Synod, but of the Church which created the Synod as a managing body, to watch over its interests;

That the Clergy Reserves were granted for the benefit of natives of Scotland emigrating to Cadada, being members of the Church of Scotland, and that the trusts, colleges and congregational properties are held for their benefit, for the benefit of their children whilst they adhere to that Church, and for the benefit of all who may desire to enjoy the privileges thus secured for the maintenance and extension of religious ordinances in connection with the Church of Scotland, but who cannot, on the plea of being a majority, or for any other reason, take possession of the property of the adherents of the Church of Scotland in Canada to be transferred to the adherents of any other church;

That, by the law of the land, as declared in various judgments, in Canada, the ministers and others who have joined the new Church, known as the Presbyterian Church in Canada, have ceased to be members of the Presbyterian Church of Canada, in connection with the Church of Scotland, and have forfeited all title to the benefits springing from that connection, whilst those who still adhere to that Church have been equally declared to be those for whose benefit the Trusts were created;

That, by the judgment of the Judicial Committee of the Privy Council, above referred to, the Local Legislation of 1875 affecting the Temporalities' Act of 1858, has been explicitly, and other Acts for the purpose of carrying out the union referred to, have been implicitly set aside;

That Bills to legalize these Acts, and to transfer the Temporalities' Fund, the Ministers' Widows' and Orphans' Fund, and Queen's College, from the Presbyterian Church of Canada, in connection with the Church of Scotland, to a new body called the Presby-

terian Church in Canada, have been passed by the two Houses of Parliament, and now await the Royal assent;

That, by these Bills it is declared that the Presbyterian Church of Canada, in connection with the Church of Scotland, shall no longer be suffered to exist in this country as a distinct Church ; an application for an Act of Incorporation, made during this Session, having been rejected for the following reasons, given in a report presented to the House of Commons, by its Committee on Private Bills ::—" Find preamble not proven, inasmuch that by Bill No. 66, it was declared the Synod of the Presbyterian Church in Canada, in connection with the Church of Scotland, was incorporated in the Union ; they, therefore, cannot recommend a separate Act of Incorporation ;"

That, it was shown by petition, and otherwise, that the Presbyterian Church of Canada, in connection with the Church of Scotland, still continues as a distinct Church, having its Presbyteries Synod and congregations of adherents of the Church of Scotland in Canada ;

That, their existence and rights have been recognised by the Courts of Canada ;

That the capital of the Temporalities' Fund was, by agreement with the original founders, sanctioned by the Act of Incorporation of 1858, to remain untouched, it being provided that the revenues alone were to be drawn on to meet the annual expenditure ;

That, contrary to the terms of the Trust, the capital has, since 1875, been diminished to the extent of nearly one hundred and forty thousand dollars, ($140,000) ;

That, by the Temporalities' Bill, passed during this Session, it is provided that the capital shall continue to be encroached on, and a clause has been inserted in the Bill, legalizing all transactions of whatever nature since June, 1875, on the part of those who, by the said Bill, have been reinstated as trustees of the said fund, which is to be diverted from its original objects, although they were declared by the Privy Council to have been administering it illegally, so that any investigation into the nature of the said transactions is thereby prevented;

That, the Acts referred to in this petition, now awaiting the Royal assent, are in violation of the civil and religious rights of a portion of this community which has done nothing to forfeit them ;

That, even if it were competent for Parliament to pass Acts in violation of the law of toleration and of the liberty of conscience secured to every British subject, that cannot be done by a private Bill, promoted by private individuals, and the objects of which are not even stated to be necessary for the general public good ;

That, if it be determined for the general public good to put an end to a Church which has existed in these Provinces continuously since immediately after the cession of Canada, and still exists, though numerically diminished, that determination can only be

given effect to by a Public Act introduced by the Government, setting forth the reasons for putting an end to the Church, and accompanied by a clause giving immediate compensation to all interested;

That besides constitutional objections to the Bills referred to; they are vicious in principle, being retrospective in their effects; they deal with private property in contravention of the terms of the Trusts by which it is held, and of the decisions of the highest courts of law in Canada and Great Britain; they interfere with cases, now before the Courts, and inflict a pecuniary penalty on those who, acting in good faith, have incurred costs in suits raised on the well-grounded belief in the permanency of the laws of the land respecting obligations, trusts, and contracts, and they are in violation of the rights of conscience, by compelling the adherents of our Church to join a newly-formed religious organization under penalty of confiscation of the means placed in trust to secure for them the maintenance of religious ordinances by the Church to which they belong;

That, besides the general question, the Bill relating to Queen's College is *ultra vires*, as it sets aside the terms of a Royal Charter:

WHEREFORE,—For these and other reasons, your petitioners, duly authorized by the said Presbyterian Church of Canada, in connection with the Church of Scotland, humbly pray that the Bills relating to the Board of Management of the Temporalities' Fund of said Church; to the Ministers' Widows' and Orphans' Fund of said Church, and to Queen's College, be not assented to, but that they be reserved until Her Majesty's pleasure shall be known.

And your petitioners, &c.

GAVIN LANG,
Moderator of the Synod of the Presbyterian Church of Canada, in connection with the Church of Scotland.

DOUGLAS BRYMNER,
Clerk of the Synod pro tempore.

T. A. MCLEAN.

THE QUESTION OF COMPROMISE.

Whilst the Temporalities Bill was before the Committee of the House of Commons, it was suggested, apparently by authority, that it might be possible to effect a compromise of the claims of those who adhered to the Church of Scotland. Feeling the unwisdom of agreeing to such a proposal, I declined to do so, on various grounds, some of which will be found embodied in the following letter, in which I desired to place my views on record, to be laid before the Defence Committee of the Presbyterian Church of Canada, in connection with the Church of Scotland. The entertaining the proposal was, I believe, to drag us down from our true position of fighting for a principle to that of scrambling for a few thousand dollars, an acknowledgment which the members of the Church were not prepared, and had no reason, to make. I now publish the letter to form part of the history of the proceedings :

OTTAWA, 17th March, 1882.

DEAR SIR,—After long and painful consideration of the wisdom of making a compromise, as we have been requested to do, I have come to the deliberate conviction, that it is my duty, to decline giving my sanction to the course proposed to us. We have no authority from our people to barter away their just claims. That is one reason. But there are others. What security have we that this agreement will be more permanent than the last, hedged round as that was by personal obligation and legislative sanction? We are fighting for the maintenance of our Church, and in that respect I feel the weight of responsibility laid on me by our people whom I represent, almost greater than I can bear, but co-incident with that, we are fighting a great social and constitutional battle, to which the attention of the whole people of the Dominion should be directed. I prefer fighting communism at once, rather than after it has been established as the rule in Canadian legislation. I deny the right of Parliament to take from me my property, and give it to, or divide it with, my neighbour, at the dictation of any class of men, no matter how numerous or influential. I deny the right of Parliament to usurp the functions of a court of law, to reverse the judgment of Her Majesty's Privy Council, the highest Court of the Empire, and to declare one of two contending parties to be entitled to the funds of a trust by means of a bill, which its very title proves to belong to the other.

Parliament cannot constitutionally pass the bills under consideration.

(1) A franchise already granted, and not forfeited, cannot be re-granted.

(2) The act of confiscation now threatened is not an act of legislation.

(3) The bills are not general acts, but affect particular persons, and dissolve contracts.

(4) It is not within the competency of the Parliament of Canada to set aside the terms of a royal charter constituting a trust affecting third parties.

The legislation is vicious in principle.

(1) It deals with private rights to their detriment.

(2) It is retroactive in its effect.

(3) It interferes with actions now before the courts.

(4) It destroys all faith in the security of property, permanency of trusts, and validity of contracts.

(5) It undermines the foundations of society, and deprives the weak of all protection against those who, by co-operation of Parliament, will be able to obtain legislation against them, no matter how unjust may be its character.

Should it be determined to present any scheme for compromise, I request that this letter may form part of the documents embodying the proposed compromise, and that it be read before the committee, if, and when, its sanction is asked for the adoption of such compromise.

In the event of its being found necessary for the vindication of my course, should no compromise be effected, I reserve to myself the right of making this letter public. I am, &c. &c.,

DOUGLAS BRYMNER.