

George Jarvis Goodhue, deceased."

The Report was then read by the Clerk, as follows:—

OSGOODE HALL, 11th February, 1873.

The undersigned judges, who have considered the Estate Bill (No. 132), intituled "An Act to declare and determine the true meaning and intention of an Act intituled, 'An Act to confirm the deed for the distribution and settlement of the estate of the Honourable George Jarvis Goodhue, deceased,' forwarded to the judges under the Provincial 34 Vic., cap. 7, to report thereon, beg leave to submit the following observations relative thereto:—It being the peculiar duty of the judges to interpret the Acts passed by the Legislature, and to expound their meaning, they can only do so by reference to the language used in framing these Acts of Parliament: they can know nothing of the intention of the Legislature, save from the language in which the Acts passed by them are expressed. A Court of competent jurisdiction having, by its judgment, declared the meaning of an Act of Parliament, the only safe rule to act upon is, that the declaration of the meaning so made must be accepted as the true interpretation of the statute, until such judgment is altered or reversed, or a different meaning given to the statute by a tribunal of equal or greater authority. Under our system of judicature, the highest judicial authority in this Province is vested in the Court of Appeals, which has placed an interpretation on the Provincial statute, 34 Vic, cap 99, which the petitioners consider erroneous, or to use the words of the petitioners referring to the decision of the Court of Appeals as to the intent and meaning of the statute, judging as they were bound to do from the words of the statute, "That the effect of such construction (of the statute) is entirely to defeat the intention of the Legislature," and they desire this present Parliament to pass an Act, "declaring and determining the true intention and object of the Legislature in passing the said former Act." This is, in effect, asserting that the judgment of the Court of Appeals is erroneous, and the authority of the Legislature is invoked to correct the error. This, in substance, and almost in words, would be the nature of an application to a Court of Appeal to correct the erroneous judgment of the Court appealed from. The legal tribunal to appeal to to correct the decisions of the Court of Appeal in this Province, if erroneous, is the Judicial Committee of Her Majesty's Privy Council; and until the law in that respect is changed, the passing of an Act by the Local Legislature in effect to declare the decision of the Court of Appeals here to be erroneous, seems to be highly objectionable. In any view that can be taken of the matter, there would seem to be considerable difficulty in establishing to the satisfaction of this Parliament, what the true "intention and object" of the first Parliament of Ontario was in passing the Act alluded to by any evidence which ought not equally to have convinced the Judges of the Court of Appeals of such intent and object. The only new or fresh evidence suggested in the petition appears to be that, when "the Bill" referred to was before the Legislature the following amendment was rejected on a division, viz, "That the Bill should not now be read third time, but that it be referred back forthwith to a Committee of the Whole, with an instruction to amend the same by inserting, as the fourth clause, the following:—'4. Provided always, and it is hereby declared, that the foregoing enactments, or any of them, shall not take effect until it shall have been decided by a majority of the judges of one of the Superior Courts in this Province, that the interests in the testator's estate, by the said will bequeathed in trust for all his children who shall be living on the death of his said wife, were on his death, or at any time thereafter, before the passing of this Act, vested interests in the children of the testator.'" The action of the Legislative Assembly in rejecting this amendment was quite consistent with the view that they were satisfied that such interests were not "vested interests" in the children of the testator; and, as they were not legislating to deprive the grandchildren of any rights they might possess under the will, it was not necessary to make a reference to the judges to decide that point; and looking at the judgment of the Court of Appeals such may be assumed to have been the real ground for rejecting the amendment; or they may have been induced to believe that, under the will of the testator, his children took a vested interest in the residuary estate, and that there could be no injustice done to the grandchildren in legislating to vest the shares of the children at once, instead of delaying until the death of the testator's wife. It seems to have been the opinion of all the judges that the interests of the children were not vested interests;

LEGISLATURE OF ONTARIO

SECOND PARLIAMENT—SECOND SESSION.

WEDNESDAY, Feb. 12.

The Speaker took the chair at three o'clock.

PETITIONS.

The following petitions were presented:—

Mr. Oliver—From the County Council of Oxford, praying for the conservation of forests in Ontario.

Mr. Code—From the School Board of Carleton Place, praying for certain amendments to the School Act.

Also—From the School Board of Smith's Falls, praying for certain amendments to the School Act.

Mr. Mowat—From John Cunningham and others, of Woford, praying that an Act may pass to prohibit the manufacture and sale of intoxicating liquors.

THE GOODHUE ESTATE.

Mr. SPEAKER informed the House, that the Clerk had received from the judges appointed to inquire into and report on Estate Bills, their Report in the case of Bill (No. 132), to declare and determine the true meaning and intention of an Act intituled, "An Act to confirm the deed for the distribution and settlement of the estate of the Honourable