

tinct representation that they desire to raise a particular question of law of great and general importance, cannot be permitted, at the hearing of the appeal, to change front and say that no such question arises, and to argue that the case turns upon a question of fact which the Supreme Court has wrongly assumed or decided. If the appellant Corporation, in petitioning for the exercise of Her Majesty's prerogative, had stated the same case which they attempted to present in argument, it is almost matter of certainty that leave to appeal would have been refused.

Upon the construction of the Municipal Acts, their Lordships entirely concur in the view taken by Chief Justice Ritchie. Section 323 of the General Act imposes upon the valutors appointed by the Council the duty of making a valuation of the "taxable property of the municipality;" and by the terms of Section 326 no part of a railway is made taxable property, except the land, as land, occupied by the road. In their Lordships' opinion the enactment of Section 327, to the effect that, when the Company make no return, the valuation of all their immovable property shall be made in the same manner as that of any other ratepayer, refers to their immovable property already declared to be taxable, and simply amounts to a direction that the value of such taxable estate shall be estimated by the town's valutors instead of the Company itself.

The judgment of the Supreme Court ought, therefore, to be affirmed; and their Lordships will humbly advise Her Majesty to that effect. The appellants must pay the costs of this appeal.

Judgment affirmed.

Jeune, Q. C., and *Gore*, for the appellants.

J. S. Hall, Q. C., (of the Canadian bar), and *Macleod Fullarton*, for the respondents.

THE JESUITS' ESTATES ACT.

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There are other reasons, although perhaps of less importance, why in the opinion of the undersigned the petition cannot be favorably entertained. Without intimating, as has already been observed, that he has any interest beyond that of any other citizen and

taxpayer, and without stating that he has even any doubts as to the validity of the legislation which he proposes should be tested, with the plain declaration of your Excellency's advisers that the Acts referred to are within the powers of the legislature, and with the declaration, which will be hereafter referred to more particularly, of the House of Commons of Canada, that interference with these Acts, on the part of your Excellency, was not to be advised; the petitioner, in making the present request, proposes a course which would result in the Government of the Province of Quebec, or the persons in whose favor these Acts were passed, being put to expense in defending the validity of these enactments in the Supreme Court of Canada and, perhaps, ultimately, on appeal before the Judicial Committee of the Privy Council, unless they would submit to the decision being *ex parte*, in which case it would have very little weight as a judicial determination.

The petitioner has not, in the matter of costs, subjected himself to the same obligations as an applicant would incur in the somewhat analogous case in which a private person seeks to use the name of the Crown, or of the Attorney-General, in a civil proceeding in a court of justice. He declares in his petition that he is willing to bear "the necessary costs of the Government" and "as an evidence of such willingness" he has deposited his certified cheque on the Bank of Montreal, payable to the order of the Deputy Minister of Finance for the sum of \$5,000. This deposit is, therefore, made for the purpose of securing the "necessary costs of the Government" of Canada, should a reference be made. So far as now appears, the case would seem to be one in which the Government of Canada would not be justified in appearing as a party to the reference, or in incurring any costs in respect thereto, the Dominion Government not having any immediate or direct interest in the controversy. It is not the practice of Her Majesty's Government to interfere on a reference for advice, or to retain counsel to argue that the advice should be given one way or the other. Indeed, to do so would appear unseemly and inconsistent with the idea of seeking advice