judgment on the 13th of May, 1882. Chief Justice Ritchie and Justices Strong and Gwynne were in favour of allowing the appeal, but Mr. Justice Fournier, who was a member of the Full Court, adhered to the view which he had taken as judge of first instance, and Justices Henry and Taschereau, in substance, agreed with him. In consequence of this equal division of opinion in the Supreme Court, the order appealed from was confirmed, and the appeal dismissed, with costs. Their lordships do not consider it necessary to notice the great variety of reasons assigned by the learned judges of the Supreme Court in support of the views which were severally adopted by them, with the exception of one point raised in the judgment of Mr. Justice Gwynne. That point is deserving of notice for this reason—that if the opinion of the learned judge, which is based on the provisions of the Petition of Right Act of Canada, be well founded, the respondent, though he might have suit for recovery of his fees from any subject, could not recover them, by petition, from the Crown. By a pardonable error, Mr. Justice Gwynne refers to the Act of 1875, instead of the Petition of Right Canada Act, 1876 (39 Vict., c. 27), which repealed the statute of the previous year. Section 19, which is identical, in expression, with the similar circumstances of the repealed act, provides "that nothing contained in this act shall give to the subject any remedy against the crown in any case in which he would not have been entitled to such remedy in England, under similar circumstances, by the laws in force there prior to the passing of the imperial statute 23 and 24 Vict., c. 34." The learned judge seems to hold that these provisions place a Quebec lawyer on perfectly the same footing as an English barrister, so far as regards his right to proceed against the Crown for recovery of his fees. But it appears to their lordships that the process of reasoning by which the learned judge arrives at that conclusion confounds two things which are essentially different—"right" and "remedy." The statute does not say that a Quebec lawyer shall, in all cases, have only the same right against the Crown as a member of the English bar. What it does enact is that no subject in Canada shall be entitled to the "remedy" provided, unless he has a legal claim, such as could have been enforced by petition of right in England prior to the Imperial Act of the 23rd and 24th Victoria. It is impossible to hold that a member of the Quebec bar who, by law and practice, is permitted to sue for his fees, when he seeks his remedy against the Crown, under the Canadian Act of 1876, has no such legal claim, and that he sues under circumstances similar to those in which an English barrister is placed who, neither by the usage of his profession nor the law of his domicile, can maintain any action for his fees. Their lordships will, therefore, humbly advise Her Majesty to affirm the judgment of the courts below, and to dismiss the appeal, with costs.

Judgment affirmed.

The *Solicitor General* and Mr. *Jeune* for the Crown.

Mr. *McLeod Fullarton* for the respondent.

SUPERIOR COURT.

MONTREAL, July 30, 1884.

[In Chambers.]

Before TORRANCE, J.

McLEAN, Petitioner, and PHILLIPS et al., Respondents.

Costs—Petition for appointment of sequestrator.

The petitioner in April presented a petition for the appointment of a sequestrator to collect the revenue, of certain lots of land, in which petitioner claimed a usufructuary interest. After pleas filed, the petitioner discontinued, and now claimed the revision of a bill of costs. The bill was taxed against petitioner and a fee of $25 allowed respondent's attorney. The petitioner contended that the only fee allowable under the tariff was $3.

Ritchie, supporting the taxation, cited Wotherspoon, C. C. P., p. 321, 2, and 3 Legal News, p. 358; 17 L. C. Jur. 69.

Benjamin è contra.

TORRANCE, J. The taxing officer appears to have been guided by the rules laid down for actions not specially provided for; p. 321 of Wotherspoon.

I am inclined to place the taxation of the present proceeding under No. 83 p. 329 of