

constitutionality of the Act can be decided in the Province of Quebec before the Courts at the instance of residents and tax payers of the Province of Quebec or other private parties.

2. I consider that there is no procedure in the courts of this province which would admit of an order being obtained restraining the Treasurer from paying over the money, and I am aware of no precedent for interference on the part of the judicial committee of the Privy Council in such a matter. If the Dominion Government should refer the question of the constitutionality of the Act to the Supreme Court under the Supreme Court Act, I am of opinion that the judicial committee of the Privy Council would allow an appeal whichever way the decision of the Supreme Court may be.

If the opinion of the Supreme Court or the Privy Council should be that the Act was unconstitutional, I am of opinion that the nullity of the Act would flow from such a decision, and that it would be indifferent whether the twelve months from the receipt of the Act by the Dominion Government had expired or not.

(a) If a petition has been presented to the Governor-General-in-Council by the Protestant minority of the Province of Quebec, under the terms of the British North America Act, it would no doubt be quite proper that a regular hearing of such petition should be allowed; but I am of opinion that such a matter would not properly be the subject of an appeal to the judicial committee of the Privy Council—the intention of the Confederation Act appears to me to be that the decision of such an appeal should be in the discretion of the Governor-General-in-Council.

(b) There is no procedure under the laws of our Province by which an injunction could be granted against the Treasurer of the Government of Quebec preventing him from paying over any money or doing any act or thing under the law in question until its constitutionality has been decided.

I have the honor to remain,

Yours, etc.,

GEORGE IRVINE.

Messrs. Macmaster & McGibbon have given the following opinion to Mr. Graham, proprietor of the *Montreal Star* :

MONTREAL, 8th June, 1889.

DEAR SIR,—In reply to your favor of the 25th May, and referring to our subsequent consultations on the same subject, we would say that we have come to the conclusion that the best and most speedy means of obtaining judgment on the Jesuit Acts is to petition the Governor-General-in-Council to refer the matter to the Supreme Court of Canada. This he has power to do under section 37 of the Supreme Court Act. We should advise that this petition be accompanied by a deposit of sufficient funds to cover the Government's expenses, in order to anticipate any possible objection that no appropriation had been made for the purpose.

We are your obedient servants,

MACMASTER & MCGIBBON.

Messrs. Atwater & Mackie write as follows to Mr. Graham :

MONTREAL, 6th June, 1889.

DEAR SIR,—In reply to the question contained in your favor of the 25th ult., asking for an opinion as to the best and most speedy means of obtaining an authoritative judgment on the legality of the Jesuit Incorporation and Jesuit Endowment Acts, we may state that the most speedy means of having the legality of these Acts tested, would be for the Governor-General-in-Council to make a reference of the question of the legality to the Supreme Court of Canada, the statute incorporating which court makes provision for such case. The section of the statute mentioned reads as follows: "The Governor-in-Council may refer to the Supreme Court for hearing or consideration any matter which he thinks fit to refer; and the court shall thereupon hear or consider the same, and certify their opinion thereon to the Governor-in-Council." (Revised Statutes of Canada, Chap. 135, sec. 37.)

It is our opinion that the terms of this clause are sufficiently broad to permit of the Governor-in-Council referring this matter to the Supreme Court, but, of course, it is entirely in his discretion under the advice of