

1849. Hamilton
v.
Desjardins
Canal Co. lecting authorities upon the subject, we must assume that the case cited is the only direct authority in favour of the motion. We do not consider, however, that the authority referred to ought to govern us upon this occasion; for besides being very special in its nature, it has relation to the administration of a charity—a class of cases in regard to which this court is governed by principles and a practice not applicable to ordinary trusts.

But although we should have felt great difficulty upon the grounds stated, in ordering the funds of this company into court upon this interlocutory application, we do not find it necessary, upon this occasion, to pronounce our judgment upon that portion of the case, because we are of opinion that this record has not been properly framed, and that the second objection must therefore prevail.

Judgment. We are glad that this portion of the case has been so fully and ably argued, and the authorities so carefully collected, not only because the case is in itself important, and the question involved somewhat difficult of solution; but, further, because although the modern decisions are numerous, we have not found any in which the authorities have been fully reviewed, and we have not been able to satisfy ourselves that the views of all the learned judges who have decided those cases can be reconciled.

The bill in this case has been filed by the plaintiffs on behalf of themselves and all the other shareholders except the defendants, (the then directors,) against the then directors and the company; and it complains of a disposition of the entire funds of the company, in a manner which this court does not permit in trustees, and therefore to be *remedied*; or at all events contrary to the 9th Victoria, ch. 85, and therefore to be *prevented*. I call attention again to the two-fold ground upon which the plaintiffs found their case, because, although much of the reasoning upon which we rest our judgment will be found to apply to both grounds, yet some portion of it is exclusively applicable to the former, and we are anxious that the principles upon which we proceed should be clearly announced. The bill complains of a disposition of the entire revenue of the Desjardins Canal Com-

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