

MONTREAL.—COURT of Queen's Bench, January Term.
1848.—LESLIE et al., vs. SHAW et al.

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The ordinance 2, Vic., cap. 26, was intended to vest property in religious bodies, and their powers must extend to the performance of acts necessary for the preservation of their rights.

This was an action brought by the plaintiffs, in the capacity of a committee appointed by the proprietors of the Scotch Presbyterian Church, St. Gabriel Street, for the management of the temporalities of the church, against the defendants, as trustees, under the will of the late Rev. James Somerville, requiring the latter to account for the execution of a trust in the disposal of a legacy of £1000, with which it was alleged they had purchased property, and erected a manse, or parsonage house, for the use of the minister; but their trust, as was alleged, according to the terms of the will, being finished, they refused to deliver over the property to the plaintiffs, who declared themselves to be the parties whom the testator intended by his will as the legatees.

The defendants, on several grounds, contended that they were not liable to account to the plaintiffs. Their first plea was a demurrer to the action of the plaintiff's, which came on for argument in October term, and remained *en délibéré* until the present term.

The grounds of demurrer were, that it did not appear that the action was for the recovery or the conservation of the rights of the plaintiffs in respect to any lands or property, that they had ever possessed; nor any deeds or property, the deeds of which had been registered pursuant to the Ordinance authorising religious bodies to hold lands.

The defendants contended that the Ordinance 2 Vic., c. 26, authorising religious bodies to hold lands, under which