

JUDGES' REPORT ON THE GOODHUE BILL.

Parliament, the only safe rule to act upon is, that the declaration of the meaning so made must be accepted as the true interpretation of the statute, until such judgment is altered or reversed, or a different meaning given to the statute by a tribunal of equal or greater authority. Under our system of judicature, the highest judicial authority in this Province is vested in the Court of Appeal, which has placed an interpretation on the Provincial statute, 34 Vict, cap 99, which the petitioners consider erroneous, or to use the words of the petitioners referring to the decision of the Court of Appeal as to the intent and meaning of the statute, judging as they were bound to do from the words of the statute, 'That the effect of such construction (of the statute) is entirely to defeat the intention of the Legislature,' and they desire this present Parliament to pass an Act, 'declaring and determining the true intention and object of the Legislature in passing the said former Act.' This is, in effect, asserting that the judgment of the Court of Appeal is erroneous, and the authority of the Legislature is invoked to correct the error. This, in substance, and almost in words, would be the nature of an application to a Court of Appeal to correct the erroneous judgment of the Court appealed from. The legal tribunal to appeal to to correct the decisions of the Court of Appeal in this Province, if erroneous, is the Judicial Committee of Her Majesty's Privy Council; and until the law in that respect is changed, the passing of an Act by the Local Legislature in effect to declare the decision of the Court of Appeal here to be erroneous, seems to be highly objectionable. In any view that can be taken of the matter, there would seem to be considerable difficulty in establishing to the satisfaction of this Parliament, what the true "intention and object" of the first Parliament of Ontario was in passing the Act alluded to by any evidence which ought not equally to have convinced the Judges of the Court of Appeal of such intent and object. The only new or fresh evidence suggested in the petition appears to be that, when 'the Bill' referred to was before the Legislature the following amendment was rejected on a division, viz., 'That the Bill should not now be read a third time, but that it be referred back forthwith to a Committee of the Whole, with an instruction to amend the same by inserting as the fourth clause, the following:—

"4. Provided always, and it is hereby declared, that the foregoing enactments, or any of them, shall not take effect until it shall have been decided by a majority of the judges of one of the Superior Courts in this Province, that the

interests in the testator's estate, by the said will bequeathed in trust for all his children who shall be living on the death of his said wife, were on his death, or at any time thereafter, before the passing of this Act, vested interests in the children of the testator." The action of the Legislative Assembly in rejecting this amendment was quite consistent with the view that they were satisfied that such interests were not 'vested interests' in the children of the testator; and as they were not legislating to deprive the grandchildren of any rights they might possess under the will, it was not necessary to make a reference to the judges to decide that point; and looking at the judgment of the Court of Appeal such may be assumed to have been the real ground for rejecting the amendment; or they may have been induced to believe that, under the will of the testator, his children took a vested interest in the residuary estate, and that there could be no injustice done to the grandchildren in legislating to vest the shares of the children at once, instead of delaying until the death of the testator's wife. It seems to have been the opinion of all the judges that the interests of the children were not vested interests; and that, if the Legislature acted in a different view of the effect of the devise, they were acting under an erroneous view of the construction of the will in that point. In either of these views as to the cause of the rejection of the motion in amendment, no satisfactory evidence would be afforded for passing this statute, beyond what the former Act itself would furnish. We therefore come to the conclusion that an Act declaring and determining the true intention and object of the first Parliament of Ontario in passing the said former Act, is highly objectionable, having duly considered the grounds stated in the petition. But the Bill goes further, and by sec. 3 proposes to enact 'That the claims, rights, and interests of the grandchildren of the testator are hereby extinguished and determined; and the said Act and the deed, schedule A, are to be construed as if the said grandchildren * * * were of full age, and executing the said indenture, and thereby granting, assigning, and releasing to the said children of the testator any rights, claims, or interest in the premises.' The judges now almost for the first time, being required to discuss the 'advisability' of any proposed statute, deem it right to have it clearly understood that the Act submitted to them distinctly takes away certain valuable rights from one class of persons, and transfers such rights to another class; that it defeats the hitherto undoubted rights of a