

any judgment against the Appellant, or whether it was led into an usurpation of authority which the Presbytery cannot legally sanction.

He at this hour is unable to determine what were the precise false statements, or unchristian averments, and insinuations in the circular for which he is suspended. He finds no specification in the charge, and none in the judgment, and he has been forced even in this his petition in Appeal, to grope about in the dark, to argue as if every statement as to matter of fact might not be one of those qualified or false, or as a misrepresentation or an unchristian averment.

But such a judgment, even if rendered on a charge clearly and specifically made, in a regular and formal act of accusation declaring what statements were false and what unchristian, would still (as appellant submits) have been beyond the Jurisdiction of the Court, and against Justice, if rendered without evidence;—and doubly so, when there is no legitimate accuser, no public scandal calling on the session to prosecute, and no formal written citation, and the judgment is based on an irregular resolution calling simply for the withdrawal of alleged false statements, and an expression of regret for publishing them.

It may be added here, that notwithstanding the notice given of an Appeal, the Session has proceeded as if no appeal had been taken, by not giving the Appellant notice of meetings of Session subsequent to the notice; thereby treating the judgment as legal and final, and this contrary to the uniform rule in such cases, that an appeal is suspensive of the judgment appealed from, and although the Appellant was entitled to the exercise of all his rights until the appeal has been finally determined by the Superior Courts.

Your petitioner therefore prays, that the Presbytery, as a Court of Appeal, taking into consideration the premises, do by its judgment, adjudge and declare the said Appeal well founded and maintain the same;—that the proceedings and judgments of the said Session of St. Andrew's Church, be declared to have been contrary to the laws and practice of the Church and beyond the jurisdiction and powers of the Session, and the Statutes and By-Laws relating to said St. Andrew's Church;—that the judgment rendered on the 29th April last, be declared to have been rendered on no legal citation, accusation or summons, and without opportunity of adducing testimony having been allowed to the now Appellant, altho' specifically prayed for;—that the said judgment and proceedings be vacated and set aside; and further prays that the said Session be ordered to insert on its minutes a copy of the judgment to be rendered by this Court;—and further and subsidiarily prays that this Court do, by its judgment, declare that in proceeding to the said changes in the mode of worship in the said St. Andrew's Church, the said Session contravened the law of the Church and its recognized Standards and Practice, and also said Statutes and By-Laws, and that it be enjoined against any longer sanctioning the said changes in the mode of worship in said Church, the Appellant reserving his right to such further conclusions and proceedings as may be allowed by the law and practice of the Church Courts.

JAMES JOHNSTON.

Montreal, July, 1871.