constitution of the church not being shown to have provided for it, a single survivor can, by mere right of survivorship and without any successors having been chosen, exercise the right in his own name. This is the plaintiff's own statement of his case, quite irrespective of the defendant's pretension, which he contests, that other trustees were actually appointed and are *de facto* in office: so that this naked point is at once presented, and must be decided; can one of a number of trustees acquiring property for a congregation, by mere right of survivorship, and without any due succession to those who have died or ceased to hold office, exercise the rights of the whole body of trustees in his own person and name? Nay, more, perhaps: can the plaintiff call himself survivor at all, for he is naturally so only as regards the two of the trustees who have died; the other one has gone over to the other camp, and is still in the land of the living. Now this point was not argued at all, and I must decide it for myself. Either this congregation was a corporation or it was not. If it was a corporation, it must sue in its own name. If not being a corporation, the congregation has civil rights exercisable by trustees, those trustees and their duly appointed successors must sue. The old Statutes, long before the Act of 1875, regulate this. They are the 2nd Vic., c. 26, and the 19th and 20th Vic.. c. 103, and they are reproduced in the Consolidated Statutes of Lower Canada, cap. 19. The first of these Acts, sec. 3, said that congregations, when they wished to acquire lands for churches, might "*appoint one or more trustees, "to whom and to whose successors (to be appointed "in the manner set forth in the deed of conveyance) "the lands necessary for each of the purposes afore- "said may be conveyed; and such trustees and "their successors for ever, by the name by which "they and the congregation for which they act are "designated in such deed, may acquire, &c., and "may institute and defend all actions at law, "&c., &c.*" By the second of these Statutes, sections 1 and 3, "*the successors of the trustees "appointed in the manner provided by the deed, "or in the manner provided by a meeting of the "congregation held as provided by that Act, have "the same powers.*" This deed, as we have seen, makes no provision on this subject. If the plaintiff's position is to prevail, the mere fact of his own decease, or of his going over to the other party, would have extinguished the action forever. Therefore, I need not go farther; and without discussing the facts alleged, either as regards other *de facto* trustees, and without getting to the point of the defendant being improperly sued in his individual capacity, and still less to the merits of the case, I hold that I cannot proceed further with it, and it is dismissed with costs.

A case of *McRae* v. *McLeod*, very like this one, was cited by the plaintiff. That case was decided in Ontario, and was very like the present one, three surviving trustees having brought the action, and no point of this sort seems to have been raised. I am not informed what the law of Ontario may be respecting the acquisition of lands by religious congregations; but our Statutes which I have quoted, are, I think, clear.

J. L. Morris for plaintiff.

Doutre & Co. for defendant.

NOTE.—In *Tavernier* v. *Robert et al.* (p. 131), Prefontaine & Major were also for defendants, by substitution of attorney.

THE BAR SECRETARYSHIP.

To the Editor of the Legal News:

DEAR SIR,—Since you were good enough to publish my declaration of battle a few days ago, hear, I pray thee, my *post litem* wail. Put not your trust in promises. Two years ago my claim, or at least the claim of some English speaking candidate to the Secretaryship, was admitted on all sides. No such phenomenon as an English speaking secretary had been heard of for many years. Almost all the leading French barristers (I might mention names, but *cui bono?*) pledged themselves that as soon as Mr. Pelletier (who had then been a candidate for two or three years) should have had his turn, they would consider me next entitled to the position. On this ground, and on this alone, I was tempted to come forward this year. But in the meantime, other competitors had entered the field. They did so, if I am rightly informed, *in forma pauperis*. Their appeal was *ad misericordiam*, and was characteristically importunate. One was a poor man with a large family, or a large man with a poor family (I forget which). He gained the coveted prize, and is (presumably) happy. *Gaudeamus igitur*. I who was deluded into the belief that I was the only one who had any claim got *five* votes. In justice to my friends, however, I must state that business engagements prevented me from being present at the fray, and they were therefore quite justified in thinking that I had retired from the lists. I arrived just in time to hear the "demnition total," as Mr. Mantalini puts it. Therefore I complain not. But there seems to me to exist a moral in all this. If the rich pecuniary reward attached to the office of secretary is to prove only a golden apple of discord among the younger members, why not abolish it altogether? It is evident that the choice will be restricted so long as that remains. If the office should go begging under these conditions, as well hap it may, I will pledge myself (if I may be permitted to pledge myself to anything so far in the future) to perform the duties of the office until another can be found to do so on the same terms. By this means $200 can be added annually to the library fund, and much contention avoided.

I remain again,
Truly yours,
C. H. STEPHENS.

Montreal, May 3, 1881.