was made, but we are able to look at the position of the parties. Russell & Co. opened a banking account with the plaintiff, and the plaintiff, at Russell & Co.'s request, agreed to lend them £1,000 on their finding sufficient security for that sum. The defendant and Black having signed this guarantee, the money was placed to Russell & Co.'s account. On looking at the position of the parties, and at the words of this document, we have come to the conclusion that this is a continuing guarantee. It has been argued that this sum has been repaid, and that as the bank has advanced more than £1,000 during the eighteen months, the defendant is not liable, for he says that the document is to be read that Russell & Co. must not advance any sums not exceeding in the whole, the sum of £1,000. The plaintiff says that the words "not exceeding in the whole the sum of £1,000" are to be read with the latter part of the guarantee. The more natural construction is to read these words with the preceding part of the guarantee. However, as we can read it with the latter part with the same propriety, it will carry out the intention of the parties in protecting the parties who advanced the money, and who were guaranteed the repayment of it by the defendant. As to the payment of the £500, whether it ought to have been allowed to have been given in evidence in reduction of damages, or pleaded at bar. All the enactments preceding rule 14, apply to actions *ex contractu*. All those that follow apply to actions of tort, or actions in the nature of tort. The plaintiff in form is right; he was entitled to enter his verdict for £1,000, the defendant ought to have pleaded the payment by his co-surety of the £500. The plaintiff would have been entitled to have retained his verdict, if we had not power to deal with the pleadings; as we have the power, we shall amend the pleadings, but that must be done on payment of costs of this rule by the defendant.

Montague Smith, J.—I am of the same opinion. The defendant placed his name to this guarantee as a security for the advances the bank might make Russell & Co. during the eighteen months, and the sureties meant to make themselves liable up to the amount of £1,000 for any sum that might be advanced and owing to the bank at the expiration of that period. The guarantee says to what extent the defendant will be liable, and does not prohibit the bank from making other advances to Russell & Co., not on the security of their guarantee. There is nothing to limit them from so doing. Lord Ellenborough, in *Parker* v. *Wise*, states his view of a similar contract, and his construction of a similar guarantee, that the plaintiff, if he chooses to advance more than the sum mentioned in the bond, is not precluded from recovering the sum secured by the guarantee.

Now the second point, whether payment in this action can be pleaded, must be decided, as it affects the costs of the rule. This was an action on a bond against one of two sureties for £1,000, during the action and before trial £500, half of the debt on the bond, was paid by the other surety, and a verdict was given for £1,000 against the defendant, the question we have to decide is whether this payment by the co-surety could be given in evidence at the trial in reduction of damages, so that the plaintiff should have entered this verdict for £531 instead of £1 031, or if this payment should have been pleaded in bar to the action. It seems to me that it ought to have been pleaded in bar. The rule 14 H. T. 1853 is express—"Payment shall not in any case be allowed to be given in evidence in reduction of damages or debt, but shall be pleaded in bar." I think that this rule applies to all cases where a sum of money is paid in payment of part of a claim. If the £500 was paid in this action, it is properly payment within the words of the rule, and it reduces the debt that amount. I agree, however, that we ought to insist that the plaintiff now reduces his verdict to £531, but as the plaintiff is technically right, the defendant must pay the costs of the rule.

Brett, J.—The case of *Parker* v. *Wise* and the remarks made in the paragraph on the 'limitation of the liability of the surety" in Addison on Contracts apply to this case. The plaintiff is right; this bond must be construed with reference to the usage in business transactions of this kind. I agree with the construction that the Court has put on this contract, and also on their decision as to costs. The rule must be discharged, the plaintiffs consenting to reduce the damages to £500.

Cooper v. Gordon.

Dissenters—Ministers—Dismissal of—Majority of Congregation—Rights of.

In the absence of special usage, rules, or agreement, a Dissenting minister, appointed by his congregation, is not entitled to hold office for life or good behaviour against the will of the majority of such congregation.

[17 W. R. 908.]

The object of this suit was to obtain a declaration that the defendant, the Reverend Samuel Clarke Gordon, a Dissenting minister, had, by a resolution which had been passed by a majority of his congregation, being duly dismissed from his office, and to restrain him from continuing to act as the minister of such congregation.

Previously to the year 1707, a congregation of Protestant Dissenters, known by the name of Independents or Congregationalists, were in the practice of assembling for religious worship in a building called the Presbyterian Meeting House, in Broad-street, Reading. In the year 1707 this building became vested in certain members of the congregation, twenty in number, in trust for such congregation "during such time as the assembling of Protestant Dissenters for religious worship should be permitted at the said meeting-house."

About the year 1808, three messuages and other premises adjoining the meeting-house were purchased, the meeting-house was pulled down, and a new meeting-house and vestry-room erected on the site of the old meeting-house and part of the newly-acquired premises, the remainder of which, with the exception of a house and garden, were used for the meeting-house, yard, and burial ground, and as a passage to the vestry-room. All these premises were vested in trustees upon the following trusts, as to the meeting-house, vestry-room, yard, burial-ground, and garden—"Upon trust for the use and benefit of