

and if any Corporation has a different modification of the expression of the binding will of the Corporation, it arises from the special provisions of the act of incorporation, and Angell & Ames on Corporations, at page 482, says "a majority of those present may act, "whether a majority of the whole body or "not."

Applying the rule to the present case, we have an act to be done by a certain class of the inhabitants, but of indefinite number, most certainly. The act of the majority of those *present* binds the whole. But if it had been the act of a definite number, as of the members of the Council, then an absolute majority is required, unless modified by law, and that we find is done here; for it will appear by §123 of this same statute, that as to the Council (a definite number) every disputed question shall be decided by a majority of the votes *present*; which latter word takes the case out of the general rule laid down: that where there is a definite number the absolute majority is required. So that by the act itself we find that the law as I contend it is, has been followed. If an absolute majority is meant, it must be so stated. There was a good deal of discussion as to the meaning of the words, majority and plurality—the latter is one of little usage amongst us, being more common in the States. Some dictionaries treat them as synonymous, but however that may be, we have not far to seek for the meaning of the word majority, as legal jargon. It is of very common use by our legislators, although not always used; for it will be observed at §78 of this act, the word majority is not used, but "the largest number of votes," and again, at §80 "the greatest number of votes." So that the term is not sacramental.

By sub-section 19 of art. 17 of the C. C., it is enacted that when an act is to be performed by more than two persons, it may be validly done by the *majority* of them, and by sub-section 24 of section 6, of chap. 5 of the Cons. Stat. of Canada, words making any association or number of persons, a corporation or body politic, shall vest in *any majority* of the members the power to bind the others, &c. Then again, observe the use of the word majority in the Dominion Election Act of 1874, and in the Quebec Election Act of 1875,

where it says, at section 204: "The candidate who, on the final summing up of the votes, shall be found to have a *majority* of votes, shall be then declared elected;" and it never was pretended that in these cases a majority meant the absolute majority of the electors. So that we see by these citations that the majority meant by the Legislature, unless otherwise ordered according to the well-known rule of law cited, is the numerical majority.

The learned counsel for the petitioners cited the special acts of incorporation of St. Johns, Sorel, and other towns, to show that a modification had been made as to the effect of the votes and to change the rule as to the absolute majority, as he contended for, required by the Statute. As I am of opinion that the rule is the other way, these statutes do not affect my argument.

Holding, as the Court does, that the majority contemplated by the law was the majority of the qualified electors in number and value, who were present and voted, and that such majority approved of the By-law in question, the petition must be dismissed with costs.

Petition dismissed.

E. Racicot for petitioners.

T. Amyrauld for respondents.

SUPERIOR COURT.

QUEBEC, June 9, 1885.

Before CASAULT, J.

ELÉONORE BERNARD et vir v. EDOUARD BERNIER et al.

Action for alimentary allowance—Averments.

In an action for alimentary allowance, by the mother against her children, issue of her marriage with her husband, the declaration did not allege "that her husband, the father " of the defendants, was unable to support " himself and his wife."

HELD, that a mother, though poor and unable to support herself, has no right to claim an alimentary allowance from her children, so long as she does not show that her husband is unable to support them both.

The following is the judgment of the Court:—

"La Cour, ayant entendu les parties par leurs avocats en droit, sur le mérite de la dé-