tolls, &c., which had proved entirely insufficient even to pay the interest of the former loan.

Their Lordships do not desire, by any observations, to diminish the force of these arguments, if addressed to the proper tribunal. It may be that the Legislature of the Province of Canada or that of the Dominion may see reason to listen to the prayer of the suppliants to be relieved in whole or in part from the loss of their money, which has been expended for the benefit of the province. But this tribunal cannot allow itself to be influenced by feelings of sympathy with the individuals affected. Its duty is limited to expressing its opinion upon the legal question submitted to it, and upon that their Lordships entertain no doubt.

Another argument of a similar kind has been based upon a subsequent statute of the Province of Canada, 20 Vic., c. 125, by which the Quebec turnpike roads were divided into two parts, and by which it is contended some of the debenture holders have been deprived of a part of the special fund created for the payment of their loan.

Assuming the correctness of this contention, it might have been made a ground for opposing the later enactment, or it may now be used by way of appeal to the Legislature for redress, but it cannot supply a reason for putting a construction on the obligations created by the 16th Vict., c. 235, different from that which must have been put upon them immediately after the passing of that statute.

Some minor points have been relied on by the learned Judges who have held that the suppliants were entitled to succeed on this petition. It is from no disrespect to those learned judges that these points have not been particularly dealt with, but from a belief that, however they may tend to fortify the general argument in support of which they are used, they do not by themselves afford a basis upon which their Lordships' judgment can be founded.

For these reasons, their Lordships are of opinion that the judgment of the Exchequer Court of Canada, as well as the judgment of the Supreme Court confirming the judgment of the Exchequer Court so far as it decided that the Respondents were entitled to the principal of their debentures, but varying the same by declaring that the Respondents were entitled in addition to the principal to interest from the date of filing the petition of right, are erroneous, and their Lordships will humbly advise Her Majesty that they should be reversed and judgment entered for the Crown.

Their Lordships are further of opinion and will advise Her Majesty that the Cross Appeal of the Respondents asserting the liability of the Crown to pay interest on the debentures from the date of their falling due should be dismissed, and that the costs of the Appeal and of the Cross Appeal and of the proceedings in the Courts below should be paid by the Respondents.

SUPERIOR COURT.

[In Chambers.]

MONTREAL, July 27, 1882.

Before MATHIEU, J.,

McCORD v. McCORD.

Appeal--Security--Action to set aside deed of donation

The action was instituted for the purpose of having a deed of donation declared null. In July, 1880, McCord, the plaintiff, made a donation to his brother, the defendant, of his undivided share in the father's estate, about one-third of which consisted of an emphyteutic lease which was to expire in eight years. The remainder of the estate consisted of immoveable property in the City of Montreal. In 1881, the donor brought an action *en nullité*, alleging fraud on the part of the donee, and by his conclusions he prayed that the deed might be set aside, and declared null and void, and that the defendant be condemned to cancel the registration of the deed of donation within a certain delay, and that in default of his so doing, the judgment of the Court should effect the discharge of the registration.

The Court of Review, on the 30th June, 1882, reversing the judgment of the Superior Court, maintained the action and granted the plaintiff all the conclusions of his action.

The defendant appealed from that judgment, and contended that he was bound to give security for costs only, on the principle that there was no other condemnation in the judgment than to have registration cancelled, and that the judgment itself would have this effect if nothing was done by the defendant towards that end.

The plaintiff contended that although it was not expressly declared in the judgment, the