and practice of its Courts, and to have agreed to submit to the precedents which these establish. The respondents were, therefore, justified in referring to the minutes of the Synod from 1831 to 1875, for the purpose of showing the extent of the power vested in majorities by the constitution of the Church. The minutes, which were founded upon by counsel for the respondents, afford abundant evidence to the effect that, in all matters which the Synod was competent to deal with and determine, the will of the majority as expressed by their vote was binding upon every member of the Synod, a proposition which the appellant did not dispute. But they contain nothing whatever to show that, in cases where the administration of Church property was regulated by statute, the Synod ever asserted its right to set aside that legal course of administration, and to restrain dissentient members from challenging any departure from it.

Their Lordships are, therefore, of opinion that the appellant is entitled to have it declared that, notwithstanding the provisions of the Quebec Act of 1875, the constitution of the Board and the administration of the Temporalities Fund are still governed by the Canadian Act of 1858, and that the respondent Board is not duly constituted in terms of that Act; and also to have an injunction restraining the respondents from paying away or otherwise disposing of either the principal or income of the fund.

The appellant, in his application to the Court below, asks a declaration to the effect that the fund in question is held by the respondents, "in trust, for the benefit of the "Presbyterian Church of Canada, in connection "with the Church of Scotland, and for the "benefit of the ministers and missionaries who "retain their connection therewith, and who "have not ceased to be ministers thereof, and "for no other purpose whatever." It is obviously inexpedient to make any declaration of that kind. It would be a mere repetition of the language of the Act of 1858, by which the trust is regulated, and would decide nothing as between the parties to the present suit.

The appellant also seeks to have it declared that six reverend gentlemen who, at and prior to the union of 1875 were members of the Presbyterian Church of Canada in connection with the Church of Scotland, have ceased to possess that character, and that they have no right to the benefits of the Temporalities Fund; and he concludes for an injunction against the respondent corporation making any payment to them. Their Lordships are of opinion that these are matters which cannot be completely decided in the present action. Their decision depends upon the answer to be given to the question, which Church or aggregate of churches is now to be considered as being or representing the Presbyterian Church of Canada in connection with the Church of Scotland, within the meaning of the Act 22 Vict., cap. 66? But the two Churches which appear from the record to have rival claims to that position are not represented in this action; and, of the six ministers whose pecuniary interests are assailed by the appellant, he has only called one, the Rev. Dr. Cook, as a respondent. That question between the Churches must be determined somehow before a constitutional Board can be elected; and, unless the Dominion Parliament intervenes, there will be ample opportunity for new and protracted litigation. It cannot be determined now, because the appellant has not asked any order from the Court in regard to the formation of the new Board, and has not made the individuals and religious bodies interested parties to this cause.

Substantial success being with the Appellant, he must have his costs as against the Respondents. But their Lordships are of opinion that neither the Respondents' own costs, nor those in which they are found liable to the Appellant, ought to come out of the Trust Fund, which they are holding and administering without legal title. The Appellant's costs must therefore be paid by the members of the Respondent Corporation as individuals.

Their Lordships will, accordingly, humbly advise Her Majesty that the judgments under appeal ought to be reversed, and that the cause should be remitted to the Court of Queen's Bench, Lower Canada, with directions to that Court to give effect to the declarations recommended by this Board, and also to issue in the Appellant's favour an injunction and decree for costs as directed by this Board.

H. Davey, Q.C., and *D. Macmaster, Q.C.*, for the Appellant.

J. C. Benjamin, Q.C., and *J. L. Morris*, for the Respondents.

RECENT DECISIONS AT QUEBEC.

Review—Deposit.—Where several defendants have pleaded separately, and the plaintiff inscribes in review on all the contestations, he is bound to make as many deposits as there are separate contestations.—*Pednaud* v. *Perron et al.* (Court of Review, Meredith, C.J., Casault and Caron, JJ.), 7 Q. L. R. 319. [See *McNamee* v. *Jones*, 4 Legal News, p. 102, where the same point was similarly decided by the Court of Review, Montreal.]

Execution—Opposition—Partial payment.—The defendant who has made partial payments on account of the judgment can file an opposition claiming to have the judgment reduced, but has no right to demand the total nullity of the seizure.—*Thibault* v. *Fontaine*, (S.C. Opinion by Meredith, C.J.), 7 Q. L. R. 320.