

ACTION AGAINST PUBLIC BODY—NOTICE OF ACTION—JURISDICTION—DAMAGES AWARDED IN LIEU OF AN INJUNCTION, EFFECT OF—(R.S.O., c. 44, s. 53, s-s. 9.)

In *Chapman v. Auckland*, 23 Q.B.D., 94, the Court of Appeal have carried the previous decisions one step further in regard to the circumstances under which a notice of action against a public body may be dispensed with. In the previous case of *Flower v. Leyton*, 5 Chy.D., 347, it had been held that where damages were claimed as auxiliary to the plaintiff's claim for an injunction, no notice of action was necessary. In the present case (Lord Esher, M.R., and Lindley and Bowen, L.JJ.) held that when the plaintiff brings his action *bona fide* for an injunction, but at the trial the Court, under Lord Cairns' Act (see R.S.O., c. 44, s. 53, s-s. 9), awards damages instead of an injunction, still no notice of action is necessary.

HABEAS CORPUS—RETURN—DELIVERY OF PERSON OF INFANT BY DEFENDANT TO A THIRD PERSON, AFTER LAWFUL DEMAND, BUT BEFORE WRIT—CONTEMPT—ATTACHMENT—"CRIMINAL CAUSE OR MATTER."

In the *Queen v. Bernardo*, 23 Q.B.D., 305, an application was made to quash a return to a *habeas corpus* issued at the suit of the plaintiff, the parent of a child, against a well-known philanthropist to whom the child had previously been delivered by its mother. Prior to the application for the writ a demand had been made on the defendant for the delivery up of the child, which he refused to comply with, and had, instead, handed the child over to a French lady, who had removed it to France with a view to conveying it to Canada. After this the writ issued, and the defendant set up the above facts as an excuse for not delivering up the child. But Matthew and Grantham, JJ., quashed the return, and their decision was affirmed by the Court of Appeal (Lord Esher, M.R., and Cotton and Lindley, L.JJ.) On the hearing of the appeal a preliminary objection was taken that no appeal would lie because the proceeding was "a criminal cause or matter," but this objection was overruled. Lord Esher, M.R., says regarding the merits at p. 312, "The question of law is in substance whether a person who is bound to bring a child before the court can say by way of excuse, 'I have wrongfully given up the child to some one else.' In my opinion that is no valid excuse for not obeying the writ. Whether the person to whom he has handed over the child is within the jurisdiction or not, he must take the consequences, for it was his wrongful act which prevents him from obeying the writ."

HUSBAND AND WIFE—ANTE NUPTIAL DEBT OF WIFE—JUDGMENT AGAINST WIFE, WHETHER BAR TO ACTION AGAINST HUSBAND—STATUTE OF LIMITATIONS.

The case of *Beck v. Pierce*, 23 Q.B.D., 316, is another contribution to the law relating to married women. An action had been brought and judgment recovered against a married woman for an *ante nuptial* debt. This judgment being unsatisfied because there was no separate estate of the married woman out of which it could be realized, a second action was brought against her husband, who had acquired property from his wife exceeding the amount of the debt. It was contended that the previous judgment against the wife was a bar to the present