

# JUDGMENT

Delivered on the 14th December, 1852, by

**HIS HONOR THE MASTER OF THE ROLLS,**

IN THE CAUSE OF

**JAMES MELVIN, Complainant,**

AND

**FREEMAN TUPPER, and others, Trustees under the Will of } Defendants,  
James Goreham, late of Liverpool, N.S., deceased.**

*Counsel for Complt.,* The Hon. Jas. W. Johnston.  
*Counsel for Defds.,* William Young, Esq.

*Solicitor for the Complt.,* Charles Twining, Esq.  
*Solicitor for the Defds.,* George R. Young, Esq.

This case was argued before me on the 9th, 10th, and 11th of November last, by Mr. J. W. Johnston for the Complainant, and Mr. William Young for the Defendants.

I have carefully considered it and am now to pronounce the decree of the Court.

The Complainant filed his bill on the 19th of September, 1850. The material facts, as I collect them from the evidence, are as follows:

James Goreham, who died in 1841, by his last will and testament, made the following devise:

“And whereas it is my earnest desire to sustain and perpetuate the Church in the town of Liverpool, of which myself and Mrs. Goreham are members, usually designated as the Liverpool Congregational Church, and to preserve in their purity the doctrines, ordinances, and discipline, now recognized by its members, especially in reference to the ordinance of baptism, as at present administered to all subjects, as well as adults; and moreover to contribute to the repairs of the Church, and to the support and maintenance of the Rev. Mr. Melvin, the present officiating minister and his successors in office. I do, therefore, for these purposes, give, devise, and bequeath, unto Freeman Tupper, Nelson Freeman, Joseph Payzant, Fady Phillips, and Henry Payzant, and the survivors of them, and to their successors, to be appointed as hereinafter mentioned, all that certain lot, tract, piece, and parcel of land, now occupied by the said Reverend Mr. Melvin, bounded northwardly by the lane leading to the property of Mr. Henry Payzant, westwardly by the road leading from the main road to Ship Yard Point, southwardly by a line commencing ten feet from the southwardly corner of the dwelling house erected thereon and extending thence to the rear line of said lot, and thence by the fence as it now stands; also, all that certain other lot lately purchased by me, whereon the old jail stood, now converted into a dwelling house, bounded

southern line of last described premises, westwardly by the road leading to the Ship Yard Point, southwardly by the main street; and eastwardly as the fence now runs, with all the buildings and appurtenances. To Have and To Hold the said described lots unto the said Freeman Tupper, Nelson Freeman, Joseph Payzant, Fady Phillips, and Henry Payzant, and the survivors of them, and their successors in office. In trust nevertheless, that they my said trustees do and shall suffer and permit the said Reverend Mr. Melvin, during the time and while he shall continue the Minister of the said Church, to occupy, possess, and enjoy, the last described premises, and from and immediately after his decease and other termination of his ministerial connection with the said Church, to permit and suffer such other person as shall be elected and chosen, as hereinafter mentioned, to officiate as his successor in such ministry, to have the like possession, use, occupation, and enjoyment thereof, and so with all future successors, as a vacancy by death or otherwise shall arise; and upon this further trust that my said trustees do, from time to time, lease, for the highest rent that can be obtained for the same, all and singular the premises first above described and now in the occupation of the Rev. Mr. Melvin, and the rents arising therefrom to apply from time to time, as far as it may be necessary, for and towards the repairs of the said property. But it is my desire, and I do hereby direct, that in case of the death of the said Reverend Mr. Melvin leaving his wife surviving, my said trustees do and shall suffer and permit his widow to occupy and enjoy said premises, directed to be leased as aforesaid, free of rent, so long as she shall continue unmarried. I do further give, devise, and bequeath, unto the said Freeman Tupper, Nelson Freeman, Joseph Payzant, Fady Phillips, and Henry Payzant, and their successors in office, as aforesaid, the sum of seven hundred pounds. In trust nevertheless, that they my said trustees, and their successors, do and shall suffer and permit the said