

2. (Affirming the judgment in Review). that the plaintiff's privilege for the costs of suit, where the suit has been with a firm, has priority even as regards the personal effects of the individual members of the firm, over the lien of the landlord for the rent of premises leased to such members.—*Beaudry et al. & Dunlop et al.*, Dorion, Ch. J., Tessier, Cross, Baby, J.J., March 18, 1887.

COURT OF APPEAL

Nov. 21, 1887.

Before LORD ESHER, M.R., BOWEN, L.J., FRY, L.J.

REGINA V. LORD PENZANCE.

Ecclesiastical law—Contumacious clerk—Disobedience to order of suspension—Writ 'de Contumace Capiendo'—Issue of writ after expiration of order of suspension—Habeas Corpus—5 Eliz., c. 23, s. 10; 53 Geo. III., c. 127, s. 1.

Appeal from the judgment of the Queen's Bench Division, reported 56 Law J. Rep. Q. B. 532, making absolute a rule *nisi* for a writ of *habeas corpus*.

In April, 1885, a suit was instituted under the Church Discipline Act, 1840 (3 & 4 Vict., c. 86), against the Rev. James Bell Cox for offences against ritual, of which offences Mr. Cox was found guilty. On September 5, 1885, a monition was served upon Mr. Cox directing him to refrain from the practices of which he had been found guilty. Mr. Cox disobeyed this monition, and on June 13, 1886, he was suspended *ab officio* for six months. The term of suspension would consequently expire on December 13, 1886. Notwithstanding this suspension, Mr. Cox, on June 20, 1886, officiated in his church, and on July 30, 1886, he was adjudged to have so acted, and in August, 1886, a *significavit* was issued. Up to this date Mr. Cox had not appeared in the suit, but upon this latter date he obtained from the Queen's Bench Division a rule *nisi* for a prohibition, and this rule was discharged on March 11, 1887, the judgment being affirmed by the Court of Appeal on April 28, 1887. On May 2, 1887, a writ *de contumace capiendo* was obtained by the complainant, and Mr. Cox was imprisoned under it. Mr. Cox thereupon ob-

tained a rule *nisi* for a writ of *habeas corpus*, on the ground that the writ *de contumace capiendo* could not be lawfully issued after the period of six months' suspension had expired, the order of suspension for disobedience of which Mr. Cox had been imprisoned being no longer in existence. The Queen's Bench Division made the rule absolute.

The complainant appealed.

Their Lordships, having decided that under section 19 of the Judicature Act, 1873, an appeal lay from a judgment of the Queen's Bench Division on an application for a writ of *habeas corpus*, reversed the judgment appealed from. The object of section 1 of 53 Geo. III., c. 127, was not merely to compel obedience in the future, so that when the object of imprisoning the person had come to an end the person was entitled to his release. That section had abolished the sentence of excommunication (except in certain instances), and put instead thereof the decree of contumacy, reserving for the new decree the consequences formerly attaching to the sentence of excommunication, as far as they were applicable. Upon the true construction of that section, which incorporated the provisions of 5 Eliz., c. 23, a person pronounced contumacious could only obtain release from prison by bringing himself within the latter part of that section (which Mr. Cox had not done), or by making submission and satisfaction in the Ecclesiastical Court under 5 Eliz., c. 23, s. 10.—*Law Journal*.

COURT OF APPEAL.

Nov. 21, 1887.

Before COTTON, L.J., SIR JAMES HANNEN, LOPEZ, L.J.

PEEK, BART., v. DERRY.

Directors—Misrepresentation—Measure of Damages.

In this action the plaintiff sued the defendants, who were the directors of a company which was being wound up, for damages on the ground that he had been induced by misrepresentations contained in the company's prospectus to invest £4,000 in the shares of the company. The Court of appeal decided that the plaintiff had a good cause of action, but directed a further argu-