

culty occurs in the construction of the ordinance, the Court are not disposed to interpret it in the sense contended for by the defendants, or to consider it a corporation of such hybridous kind as would not permit of its seeking those rights its members assert it to be possessed of, so that whatever, ultimately, may be the fate of this action when the rights of the parties come to be tried, in the mean time the demurrer of the defendants is dismissed.

In the above case, only two of the Judges, viz., the Chief Justice, and Mr. Justice Gale, could take part in the *délibéré*, the other Judges having been consulted on the matters in dispute before their elevation to the Bench.

For Plaintiffs—Messrs. Johnson & Burroughs.

For Defendants—Mr. Cross.



DORWIN, vs. WALDORF.

Half pay is not by law transferable: but though the assignment be null, it can be guaranteed, and an action maintained upon such *garantie*.

This action was brought for the recovery of £44, cy ., being the amount of two quarters half-pay, of Lieut. Clarke, of the Canadian Voltigeurs; it was directed against the defendant, who had become surety jointly and severally with Clarke, for the fulfilment of the stipulations contained in a deed of transfer, of four years future half-pay; the half-pay was to be payable by Bills drawn on Messrs. Hopkinson, Barton & Co., of London, to be punctually delivered each quarter, and which were also to be reckoned at a certain par of exchange, if not paid. Clark neglected to furnish the Bills, or pay the money, and the action was therefore brought against his surety.