

for costs of an appeal which he was prosecuting in a Divisional Court. Wills and Wright, JJ., following *Drennan v. Andrew*, L.R. 1 Ch. 300, held that where a person obtains leave to sue *in forma pauperis*, he is entitled to prosecute an appeal without giving security.

PRACTICE — PAYMENT INTO COURT — LIABILITY NOT DENIED — VERDICT FOR SMALLER AMOUNT THAN PAID IN—PAYMENT OUT OF EXCESS TO DEFENDANT—ORD. XXII., R. 5—(ONT. RULE 632).

*Gray v. Bartholomew*, (1895) 1 Q.B. 209; 14 R. Feb. 254, was an action to recover damages for slander. The defendant, without denying liability, paid into court £5 in satisfaction of the action. The plaintiff did not accept the money and proceeded to trial, and recovered one farthing damages. The judge at the trial gave judgment for the defendant with costs, and ordered that the £5 paid into court by him should be paid out to him, less one farthing. It was contended that there was no jurisdiction to make this order, but the Court of Appeal (Lord Esher, M.R., and Lopes and Rigby, L.JJ.) held that there was jurisdiction to make the order, and that it was rightly made.

MANDAMUS—QUARTER SESSIONS—MISTAKE IN LAW.

*The Queen v. Justices of London*, (1895) 1 Q.B. 214; 15 R. Feb. 347, was an application for a mandamus to compel justices of Quarter Sessions to hear and determine an application for an order for the payment of the costs of an appeal before them. The statute on which the application relied provided that, in case an appeal thereunder should be dismissed, the "court is hereby required to adjudge and order" that the appellants shall pay the costs to the justices. An appeal was brought under the Act and dismissed, but the justices refused to make an order for payment of the costs of the justices. By subsequent statutes other provisions had been made in regard to the costs of appeals, and all Acts inconsistent therewith were repealed. Pollock, B., and Grantham, J., were of opinion that the mandamus could not be granted because the justices had heard and decided the matter, and that even if they were wrong in point of law their decision could not be reviewed by means of a mandamus, because the justices in deciding that they had a discretion as to costs and refusing them were exercising a judicial and not a merely ministerial function.