

COMMON PLEAS DIVISION.

THE CITIZENS INSURANCE CO. V. PARSONS
ET AL.

*Money paid into Court as security on appeal—
Dismissal of appeal by Court of Appeal and
Supreme Court—Payment out of money on
judge's order—Allowance of appeal by Privy
Council.*

On appeal to the Court of Appeal from the judgment of the Court of Queen's Bench in favour of one P. against the Citizens Insurance Company, the company paid into Court a sum of money as security for the amount of this judgment as well as for interest and costs, and also for the costs of the appeal. The appeal was dismissed with costs, and the company then appealed to the Supreme Court, and paid a further sum into Court as security for the costs of such appeal. The Supreme Court dismissed the appeal with costs. A judge's order was then obtained, under which the moneys were paid out of Court to G. and M., to whom P. had assigned them. The Company afterwards appealed to the Privy Council, when the judgment appeal was allowed and the judgment of the Supreme Court reversed. On an action brought therefor,

Held, by HAGARTY, C.J., that the company were entitled to recover back the moneys so paid out of Court on the judge's order for principal and interest, with interest thereon from that payment at six per cent.; and also all sums paid for costs, but without interest.

J. F. Smith, for the plaintiff.

McCarthy, Q.C., for the defendants G. and W.

J. Reeve, for the defendant P.

RE HALL.

Court of Appeal—Court equally divided—Judgment of res judicata—Habeas Corpus improvidently issued.

On an appeal to the Court of Appeal from the judgment of the Chancery Division, refusing a motion for the discharge of one W. H., detained in custody for the purposes of extradition to the United States under the warrant of the County Judge, and brought up under a writ of *Habeas Corpus*, and remanding him to such custody, the Court of Appeal were equally divided, but by the

certificate of this Court it appeared that it was ordered and adjudged that the appeal should be dismissed, and the judgment of the said Chancery Division affirmed. A writ of *Habeas Corpus* having been subsequently issued, under which the said W. H. was brought before the Common Pleas Division and his discharge moved for,

Held, that the order of the Court of Appeal was a judgment of that Court, so that the matter was *res judicata*, and that the writ was therefore improvidently issued and must be quashed.

Murphy, for the applicant.

Fenton, contra.

SPEARS V. MILLER.

Estate for life—"Demise and let."

Held, by ARMOUR, J., that the word "demise" is an effective word to convey an estate of freehold, and is of like import and equivalent to the word "grant" in the conveyance of an estate in fee.

An estate for life was therefore held to be validly created by the words "demise and let."

ANDERSON V. WOOLERS ET AL.

*Church Temporalities Act—Free church—
Churchwardens liability as corporation.*

Held, by CAMERON, J., that under sects. 3 and 5 of the Church Temporalities Act, 3 Vict. ch. 74, a vestry capable of electing churchwardens forming or constituting a corporation under the Act, so as to vest in them the right as such of suing or being sued, must be composed of persons holding pews in the church by purchase or lease, or of persons holding sittings therein by lease from the churchwardens; and is therefore inapplicable to a church where the sittings are wholly free.

An action, therefore, against the successors of the former churchwardens of such free church, on a contract made by them, was held not to be maintainable.

Delamere for the plaintiff.

Worrell, for the defendant.