and after taking time to consider, the Court of Queen's Bench, (Scott, C. J., and Powell, J.) during the same term refused the application. The entries of these proceedings are minuted in the term book of the Clerk of the Crown, but none of the affidavits or papers are forthcoming. But the preamble to the statute 10 Geo. IV., ch. 8, referred to by Mr. Harrison, recites that the appointment of Mr. Ward was adjudged by the Court of Queen's Bench to be invalid; and having ascertained that his commission was in the usual form, I infer that the ground of the judgment was that Rogers was not removable except for some one of the causes and in manner pointed out in the statute 35 Geo. III.—in other words, that he held an office of freehold.

The Interpretation Act (Consol. Stat. C., c. 5, s. 6, 22ndly) is invoked, however, on behalf of the defendant. This enacts that "Words authorizing the appointment of any public officer or functionary, or any deputy, shall include the power of removing him, re-appointing him or appointing another in his stead, in the discretion of the authority in whom the power of appointment is vested."

This provision must be considered in connection with sec. 3 of the same statute, which makes the interpretation clauses applicable, "except in so far as the provision is inconsistent with the intent and object of such act, or the interpretation which such provision would give to any word, expression, or clause is inconsistent with the context."

Assuming, as I think is shewn, that the language of the Registry Act makes the appointment *quam diu se bene gesserit*, it would be clearly inconsistent with the context to hold that the Governor had a general and unlimited power to remove a Registrar, because the power of removal is in express terms given by the statute, but given with a limitation as to the causes for which it may be exercised, and subject to the establishment of the matter of fact in a particular mode. If the power of removal were in this case to be treated as annexed to the power of appointment, and not as conferred by the Registry Act, the special provisions would be superfluous, and the officer would lose the protection which they were obviously designed to give him. He might be removed *ex mero motu*, without cause assigned at all.

Then the defendant relies on the 29 Vic. ch. 24, sec. 9, by which every Registrar in office when that act came into force (18th September, 1865), is thereby continued therein. The object of that section is primarily to confirm all appointments made in conformity with the pre-existing laws, which were by that act repealed. If the defendant was not lawfully appointed, I do not think this section would operate to confer the office on him; and if the plaintiff was in law the Registrar, though deforced, as it were, from his office, this section cannot be held to deprive him of his right. And though this act does not require either a presentment by the grand jury or a conviction, yet it expressly (sec. 16) sets forth the causes for which the Registrar may, "at the discretion of the Governor in Council" be dismissed. Probably it will be found that in order to vacate the office, which is conferred by commission under the Great Seal, some proceeding more formal than a mere minute in council may be necessary; but it is unnecessary to consider this, as neither the plaintiff nor the defendant were appointed under the authority of this act, and the validity of the removal of the plaintiff must depend on the former statute.

The only ground suggested as that upon which the plaintiff was dismissed or attempted to be deprived of office, is for misconduct in a duty imposed upon him by an entirely different act of Parliament.

By the election law, passed some years subsequent to the 9th Vic., (Consol. Stat. C.. ch. 6), the Registrar is constituted in certain cases *ex-officio* the Returning Officer at elections of members of the House of Assembly; and in sec. 31, subsec. 10, sec. 32, and sec. 34, subsec. 3, penalties are imposed for the refusal or neglect to perform certain duties imposed upon the Returning Officer; but the act contains no provision for the dismissal of the Sheriff or Registrar, the only two public officers who are *ex-officio* made Returning Officers, for any neglect or refusal to perform the duties of that office, and in fact it appears from the papers put in as part of the case, that the charge against the plaintiff was the alleged misappropriation of some moneys which he received to defray the charges of the election, an offence not provided for in the statute at all, and which was not adjudicated upon before any Court having civil or criminal jurisdiction; and though the Crown has the prerogative by letters patent to suspend a public officer whose appointment is for life, still after suspension the officer is entitled to receive the salary, though not to exercise the functions of the office—*Slingsby's* case (3 Swanst. 178).

I have not overlooked the case of *Smyth* v. *Latham* (9 Bing 692), which Mr. Richards cited, But the wide difference in the facts renders it inapplicable to the present discussion.

On the whole I am of opinion that the rule obtained by the defendant must be discharged.

As to the necessity of writ of discharge, see Sir George Reynel's case (9 Co. 98).

HAGARTY, J.—I am unable to place any other construction upon the Registry Acts, than that the Registrar holds his office, as it were, of freehold, subject only to removal for one or more of the specially assigned causes.

The Consol. Stat. U. C., ch. 89, sec. 10, and the late act 29 Vic., ch. 24, sec 8, contain similar words of appointment under the Great Seal, with power to "fill up any vacancy occurring by the death, resignation, removal or forfeiture of office by any Registrar." Both acts prescribe certain cases in which the Governor General "may in his discretion remove the Registrar. The earlier act requires in addition a presentment of the facts by a grand jury.

At the time of the defendant McLay's appointment, the former act was in force.

The defendant urges that the plaintiff's appointment is by his commission expressly limited to the pleasure of the Crown

Once it is conceded that the statute provides for a tenure during good behaviour, or at least till the happening of certain specified events, I think there is no power lower than that of the Legislature that can limit the officer to a tenure during pleasure, even where the appointment is specially accepted on such a condition. This point is established by a number of cases, and is