McLoughlin *vs.* Delahunt.

Rule in the nature of a mandament van spolie *granted.*

D. was in the employment of M. The building in which M. carried on business was leased by G. to D., who had no power of subletting it, but allowed M. to occupy it under an agreement to that effect entered into between them. M., in consequence of D.'s alleged misbehaviour, declined to continue paying him his salary unless he should explain certain transactions. D. then secretly procured from the police station without M.'s knowledge or consent the street-door key of the above-mentioned building, and refused M. admission to it. The Court *under these circumstances ordered that M. should be reinstated in the occupation of the said building.*

1880.
August 13.
" 18.
McLoughlin *vs.* Delahunt.

In this case an application was made under the circumstances set forth in the head-note for a rule *nisi* calling upon respondent to show cause why applicant should not have access to and occupation of the premises referred to above; why the remedy of a *mandament van spolie* should not be granted to applicant; and why respondent should not be interdicted from interfering with applicant in his lawful occupation of the premises.

Jones, for applicant. The case of *The Executors of Haupt* vs. *De Villiers* (3 Menz. p. 341) settles the procedure to be followed in such cases as the present.

Rule *nisi* granted to operate as an interdict meanwhile.

Posteà (August 18th),—

Jones, for applicant. The key was usually in the possession of applicant. Respondent had obtained it on the only night when it was not in applicant's possession. Respondent had thus been guilty of a kind of fraud.

Leonard, for respondent. The rule sought only applies where a person has been forcibly despoiled of his property. In this case the property to which applicant is seeking access is not his property, and he has not been deprived of it by force.

1880.
August 13.
" 18.
McLoughlin vs. Delahunt.

DE VILLIERS, C. J.:—The Court has sufficient reasons before it for making the rule absolute, with costs. If Mr. Delahunt thinks he has any claim against Mr. McLoughlin let him bring his action. For the present Mr. McLoughlin must be reinstated in the possession in which he lawfully was under the agreement. Irreparable injury might be done to him if he were suddenly debarred from printing and publishing a newspaper.

DWYER and SMITH, JJ., concurred.

Rule made absolute, with costs.

[Applicants' Attorneys, FAIRBRIDGE, ARDERNE & SCANLEN.
Respondent's Attorneys, VAN ZYL, BUISSINNÉ & LEONARD.]

BRINK AND HOLM *vs.* CHALMERS, RESIDENT MAGISTRATE OF STELLENBOSCH, AND OTHERS.

Ordinance 9 *of* 1836, § 48.—*Act* 13 *of* 1864, §§ 7 *and* 8.—*Meaning of term "Resident Householder."—Taxation of Costs.*

A person who occupies a room in a boarding-house situate within a town or village, for which he does not pay a rent distinct from the board and lodging charges which he pays to the landlord, is not a resident householder within the meaning of Ordinance 9 *of* 1836, § 48, *and Act* 13 *of* 1864, §§ 7 *and* 8.

Where applicants had been successful as against one of several respondents (all of whom employed the same attorney) and unsuccessful as to the rest, whose costs they were ordered to pay, THE COURT, *on application, ordered that the respondents' combined bill of costs should be taxed, and the applicants then called upon to pay an aliquot part of such taxed bill of costs.*

1880.
May 27.
June 1.
August 19.
Brink & Holm vs. Chalmers, R. M. of Stellenbosch, & Others.

This was an application to have an election of the commissioners of the municipality of Stellenbosch declared null and void on the ground that many of those who voted were not householders within the meaning of *Ordinance* 9 *of* 1836, and *Act* 13 *of* 1864, or were disqualified by being under the