must be prepared to shew that the original subpœna was shewn to him at the time of service, whether demanded or not. We gather from the observations of the learned judge that his decision is founded on the concluding words "except in cases of arrest or attachment," which he holds apply to the service of a subpœna, whenever the arrest or attachment of a witness for default is sought.

The judgment refers to the English practice, which expressly requires that the original shall be shewn, and also to the former common law and equity practice in Ontario which also required it. But the present English practice does not now govern in Ontario, unless it can be said to have been expressly adopted; and the former practice both at law and in equity in Ontario is, by Rule 2, expressly superseded, so far as it is inconsistent with the Con. Rules; and by Rule 3, as to matters not provided for in the Con. Rules, the practice, so far as may be, is to be regulated by analogy thereto. The Con. Rules do not expressly provide anywhere for the exhibition of an original document at the time of the service of a copy thereof, unless the concluding clause of Rule 333 can be said so to do.

The present decision, as we understand it, works a change in the practice which has, of late years, been generally adopted by the profession.

If witnesses generally understood that they could safely pocket their witness fees, and at the same time disregard the subpœna served upon them, whenever the original subpœna has not been shewn to them, we fear a great many witnesses would not scruple to follow that procedure.

The logical result of this decision goes beyond the point decided, for it would apply not only to subpœnas, but to other proceedings, and virtually lays down the rule, that whenever a proceeding is to be served on anyone, which may possibly be followed by proceedings to commit for contempt in case of disobedience, then the original of the copy served must be shewn at the time of service, whether demanded or not, or the proceedings to commit will prove abortive. The exception contained in Rule 333, has, we believe, heretofore been considered to apply only to the actual