

Chan. Rep.]

ANDERSON V. THORPE.

[Chan. Rep.]

forgery, but that the persons present refused to give plaintiff any further particulars, the court allowed interrogatories to be put to defendant as to the precise words he had used. This case does not apply. 1. Looking at the declaration it would seem the alleged libel was published in a newspaper, and no enquiry of the publisher is shown. 2. There is only the common affidavit. 3. The action is libel not slander.

I discharge the summons with costs.

See also *Carew v. Davies*, 25 L. J. Q. B. 163; *Inglby v. Shafto*, 9 Jur. N. S. 1141; *Chester v. Wortley*, 17 C. B. 210; *Stoate v. Rew*, 14 C. B. N. S. 209; *Finnay v. Forwood*, L. R. 1 Ex. 6; *Adams v. Lloyd*, 27 L. J. Ex. 499; *Moor v. Roberts*, 2 C. B. N. S. 671; *Hawkins v. Carr and Parsons v. Carr*, L. R. 1 Q. B. 89; *Blight v. Goodliffe*, 18 C. B. N. S. 757; *Thol v. Leaske*, 10 Ex. 704; *Martin v. Hemming*, 10 Ex. 478; *James v. Barnes*, 25 L. J., C. P. 182; *Osborn v. London Dock Company*, 10 Ex. 698; *Telley v. Easton*, 25 L. J. C. P. 293; *Robson v. Cooke*, 27 L. J. Ex. 151; *Dird v. Malzy*, 1 C. B. N. S. 308; *Reynell v. Sprye*, 1 DeG. M. & G. 660; *Flitcroft v. Fletcher*, 11 Ex. 543; *Horton v. Bott*, 26 L. J. Ex. 267; *Edwards v. Wakefield*, 6 E. & B. 462; *Pearson v. Turner*, 10 Jur. N. S. 731.

CHANCERY REPORTS.

(Reported by ALEX. GRANT, ESQ., Barrister at Law, Reporter to the Court.)

ANDERSON V. THORPE.

Practice—Long Vacation.

It is irregular to proceed with references in the offices of the Masters, unless by consent, during the Long vacation.

This was an appeal from the finding of the Master of Barrie, on the ground that he had proceeded with the reference under the decree made in the cause during the Long Vacation, in opposition to the objection of the defendant to proceed therewith.

Hodgins for the appeal.

Snelling, contra, contended that the Masters have a perfect right to proceed with such references in vacation, although objected to by one of the parties. The orders of June, 1853, point out expressly in what cases the Long Vacation shall not be reckoned in the computation of the time allowed for doing certain acts or taking certain proceedings; but no mention is made of proceedings to be taken under a decree. In England the Long Vacation was formerly appointed by special order made each year, which order also regulated what business should be transacted in the several offices during the period so fixed for vacation: but for these orders the offices would have been open during the whole of the vacation. Our orders specifying in what proceedings vacation shall not count, it follows that all others are unaffected by it.

Hodgins, in reply:—The English orders in force in 1837 provided for the closing of the Master's office during vacation. A vacation Master was always in attendance for the discharge of such services as could not remain over until after vacation, and for the purpose of

granting appointments. If the view taken by the plaintiff be correct the long vacation will be rendered a mere nullity.

Lord Suffield v. Bond, 10 Beav. 146; *Angel v. Westcombe*, 1 M. & Cr. 42; *Ex p. Hunt*, 4 Bea. & Ch. 503; *Daniel's Ch. Prac.* vol. ii. p. 1792; *Newland's Ch. Pr.* pp. 11-27 (ed. 1839); 9 Jurist pt. 2, page 305; *Taylor's Orders*, p. 36, were referred to.

YANKOUGHNET, C.—This is an appeal from the report of the Master at Barrie, and the principal objection is, that the Master proceeded with the reference during the long vacation against the protest of the defendant. The statutory provisions in regard to the vacation between the 1st of July and the 21st of August in each year, do not extend to this court, and the question was argued before me as necessarily depending upon the practice in England at the time of its introduction here under the act of 1837. That practice is very imperfectly stated in the books; but so far as I can ascertain it, the Master in England might if he pleased keep his office open during the long vacation. There seems to have been a vacation Master, who disposed of necessary work, such as making appointments, &c., to take effect before the Master in rotation when he opened his office, but did no more than thus was requisite. General or special orders, provided that the long vacation should not count in the time allowed for certain proceedings; I do not find that up to 1837 the Masters were prevented from proceeding with business if they saw fit. Doubtless they very seldom did so. The Accountant-General's office was open, except on fixed and recognised holidays, unless when closed for the vacation by the order of the Lord Chancellor. The Registrar's office was always open, except on special holidays, though only a clerk attended during the long vacation for routine work.

The English orders of 1845—not in force here—provide for vacations, specifying what work may be done during those periods. The order in force here in regard to the long vacation is Order No. 4 of the 3rd June, 1853. It provides that "the long vacation" shall commence and end on certain named days. What long vacation is here referred to? It must be some long vacation previously established. It could hardly refer to the long vacation in England, the period of which had never been recognized here. The special holidays or fast days in England were not observed here. The Legislature had not provided any long vacation. How then had this long vacation been established here? On inquiry I find that an order made on the 23rd of August, 1840, and numbered as 77 among the orders published in 1846—to which on the argument my attention was not called—established for the first time a long vacation in this court in the following words: "That whereas, it having been proposed by the profession and approved by the the Vice-Chancellor, that there should be a yearly vacation in this court, notice is hereby given that his Honor doth order and direct, that such vacation shall commence yearly, from and after the expiration of one week from the termination of the equity sittings after Michaelmas term in each year; and shall continue until the 1st day of November then next