

Chan. Cham.]

COSSEY V. DUCKLOW—REG. V. JARVIS.

[Eng. Rep.]

served is endorsed as if a sale only were prayed for.

Mr. Blake, in support of the motion, said that it was not purely a technical motion. It was highly important that the orders of Court in respect of procedure should be strictly observed and performed. The Court of Error and Appeal, the highest court in the land, required appeal books to be printed on paper of a certain size, and with type of a particular sort, and that court had more than once rejected appeal books because they were not so printed. The orders of this court of February, 1865, were explicit and must be observed.

He put in affidavits showing that the bill filed was printed with long primer instead of pica type, and showing that the office copy of said bill produced, and marked as an exhibit, was the office copy served on the defendant Peter Ducklow.

Moss, for plaintiff, submitted that there was no sufficient evidence that the original bill on the files was a printed bill, and that the office copy of bill produced is an office copy of the original. The original bill filed may be wholly written for anything that appears in evidence. He contended that the orders of February, 1865, imposed their own penalty, viz., that no costs of any improperly printed proceeding should be allowed. The orders would be inconsistent if such a motion as this were allowed, and the bill ordered to be taken off the files, as the penalty was provided for by the orders themselves. The particular penalty imposed by the orders was the only penalty that the Court would enforce, and it seemed quite heavy enough for the purpose intended.

The orders in question only applied to the Registrar at Toronto, and not to Deputy Registrars.

In any event the bill could not be taken off the files, as the evidence was insufficient to prove any irregularity in the bill filed, and service would be disallowed simply without costs, if the Secretary thought the action a proper one as to so much of it as related to the disallowance of the service.

Blake, in reply, said that it was only necessary to produce the office copy itself in order to prove the nature and form of the original bill on the files. The office copy of a bill is in the nature of a record, and proves itself on mere production. A printed office copy till duly certified is to be taken as an office copy of a printed original bill, and not of a bill wholly written, or partly written and partly printed.

The orders referred to all pleadings, whether filed with the Registrar or with the Deputy Registrar.

The rule was plain—nothing had been said or done to alter or vary it. The orders were not confined to the penalty named in them. The Court might, if it thought proper, impose any further penalty, and would take the most stringent means to enforce obedience to its orders. The defendant Ducklow has a right to ask the Court to compel the Deputy Registrar to comply with the order, or to put the defendant in the same position as if the Deputy had refused to comply with it.

THE SECRETARY.—I do not think I can order the bill to be taken off the files, as there is no evidence before me that the original bill filed is printed in improper type, or even that it is printed at all. The argument, that as the office copy is printed I must assume that the original is printed, otherwise the copy served would not be an office copy, is untenable. It is not necessary that an office copy should be a fac-simile of the original.

I must, however, set aside the service upon the defendant Ducklow. The orders are plain and explicit in their terms, that pleadings and all other proceedings may be written or printed, or partly written and partly printed—that when printed, dates and sums occurring therein are to be expressed by figures instead of words—that they are to be written or printed on good paper of the size and form heretofore in use, and if printed they are to be printed in pica type.

Here the office copy is neither printed in pica type nor on paper of the proper size, and though wholly printed, dates and sums are not expressed by figures, but in words. The Deputy Registrar having filed the bill is no bar to the motion. It is true the order is express that he is not to file any bill which does not comply with its requirements, but he having neglected his duty is no reason why the Court should not interfere to enforce obedience of its own rule.

In the course of the argument it was urged that the only penalty for disobedience to the order is that the solicitor filing an irregularly printed bill cannot get the costs. The defendant might have abstained from making the present motion, and then in the event of the plaintiff obtaining a decree with costs, have objected on the taxation to any costs being allowed for the bill or the office copies, and I think the taxing officer would be bound to give effect to the objection, even though the bill had been received and filed by the Deputy Registrar, but I think there is nothing to prevent the defendant making the present motion if he choose to take such a course.

As to so much of the motion as seeks relief on the ground that the prayer of the bill is unintelligible, I cannot, I think, deal with it on a Chamber application. If such applications could be made in Chambers I fear the Chamber business of the Court would be increased to an alarming extent.

The plaintiff must pay the costs of the motion.

ENGLISH REPORTS.

CROWN CASES RESERVED.

REG. V. JARVIS.

Evidence—Confession on inducement—Admissibility.

The prosecutor called the prisoner to his room, and said, "Jarvis, I think it is right I should tell you that, besides being in the presence of my brother and myself, you are in the presence of two officers of the police, and I should advise you that, to any question that may be put to you, you will answer truthfully, so that if you have committed a fault you may not add to it by stating what is untrue." A letter was then produced which Jarvis said he had not written, and the prosecutor then added, "Take care Jarvis, we know more than you think we know."