

MASTERS IN CHANCERY.

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FOR the purpose of expediting the prosecution of suits, and of lessening the costs of winding up of estates, the Judges of the Court of Chancery have issued the following circular, which has been sent to the various Masters throughout the country:—

TORONTO, 23th September, 1875.

SIR,—I am instructed by the Judges to call your attention to the fact, recently brought under their notice, that in taxing costs under the tariff lately promulgated, too little discrimination has, as a general rule, been used in the allowance of the exceptional fees there found.

You are particularly requested to notice the ground of the discretion given to you in dealing with some of the items. The larger fees which you have the power to allow are only to be given where they have been earned, and the work covered by them has been actually performed.

While notifying you of this matter, the opportunity is taken of making the following suggestions: General Order 240 seems to be too much disregarded. In proceedings before the Master it is frequently forgotten that it is his duty to devise the simplest, most speedy, and least expensive method of disposing of the references before him, and that he may dispense with proceedings ordinarily taken, or substitute a different course of proceeding from that generally pursued. It lies upon the Master to see that at the earliest moment, and at the least expense, the reference is concluded. The practice in his office should, so far as possible, be assimilated to that before the Court. An appointment should at once be given for taking up the reference, and on the return of the warrant the matter should be proceeded with, unless some insurmountable difficulty is made to appear in the way of so doing. Order 214 expressly lays down the practice which is to be pursued, and requires the matter to be proceeded with *de die in diem*. When an adjournment is granted the reason for allowing it should be noted in the Master's book, and made to appear in the bill of costs, in order that the taxing officer may judge of its sufficiency. Let the costs of these adjournments, instead of forming an item in the general bill of costs between party and party, be so far as possible disposed of at the time they are granted; and let them, including not only the fees of the Master but also of the

Solicitor, be paid, as a general rule, by the person who asks for the indulgence.—See *General Order 213*.

Let the costs of all interlocutory matters—of creditors failing in proving their claims—creditors contesting unsuccessfully for priority, or attempting to establish a claim larger than that found due—be disposed of so far as possible according to the result, and be charged against the party failing, in place of allowing them to be items in the general bill of costs charged against the estate, the subject of litigation.—See *General Order 225*. Where admissions that should have been made, let the costs connected therewith be taxed and certified.—See *General Order 234*.

Let all costs arising from unnecessary proceedings, or from over caution, negligence, or mistake, be disallowed.—See *General Orders 306 and 308*.

In cases where persons are not originally before the court, and they are added or notified in your office, set out the names of such persons, and specify those upon whom you have dispensed with service, and give the reason for so doing.

In every case, whether the bill be *pro confesso*, or not, let the defendant be notified of proceedings in your office, unless some good reason for omitting such service exists.

Whenever an admission or consent is made in your office, let the same be at once entered in the Master's book, and be signed by the parties making it, or their solicitors.

Let the report set forth whatever may bear on the question of costs, and may enable the Court to deal therewith on the cause coming before it, such as the refusal of the defendant to account—the want of proper books of account—the improper keeping thereof—the attempt to prove sums disallowed—the allowance of sums on a surcharge—the period at which balances are found in the hands of the party accounting, or such other circumstances as may go to show the origin of the litigation, and who should be charged with the costs thereof.

Endeavour to make use of *Orders 214, 584, 585, and 586*, so as to expedite the proceedings in your office.

I am directed to ask that you will have the goodness to communicate with me by letter, stating what means occur to you for expediting, simplifying, or lessening the expense of proceedings in your office, or before the Court; and to beg that you will make such practical suggestions as your experience leads you to believe may prove beneficial in these respects to the