

and examined by, the officer issuing the writ, before issuing it. But the defendant has not suffered from the irregularity; the order existed, and an office copy of it could have been had.

In these circumstances, the proper order to be now made, is that, upon the defendant paying to the plaintiffs or the sheriff, within five days, the amount due upon the two later bills of costs, that is, the balance now payable for interlocutory costs, all proceedings upon the writ be stayed. No costs of this appeal or the motion below; in default, the appeal to be dismissed with costs.

WINCHESTER, MASTER.

OCTOBER 23RD, 1902.

CHAMBERS.

RE PINKNEY.

*Security for Costs—Petition by Parents for Custody of Infant—
Petitioners out of Jurisdiction—Respondents Admitting Rights
of Petitioners.*

An application by the respondents to a petition for the custody of an infant for an order requiring the petitioners to give security for the respondents' costs of the petition.

Shirley Denison, for respondents.

W. E. Middleton, for petitioners.

THE MASTER.—The parents of Leland Pinkney have filed and served a petition seeking the delivery up by Mr. and Mrs. Corbett of Leland Pinkney, a boy about 14 years of age. The petitioners reside outside of the jurisdiction of this Court, and an application is now made by the respondents for an order for security for costs.

On the argument counsel for the respondents admitted that they were quite willing to deliver up the boy, but alleged that he refused to leave them. If this be so, then they have no objection to the Court awarding the custody of the child to his parents. The only difficulty apparently in the way is that the petitioners are asking to be paid the costs of the petition by the respondents. That is a matter that the Court has jurisdiction over, and is no reason why an order for security for costs should be granted when the subject matter of the petition must be handed over to the petitioners, as admitted by the respondents. In my opinion no order for security for costs should be granted. Costs in the petition to the petitioners.