

been attained; the papers had come to the defendant's knowledge, and she had ample time to appear and defend. In these circumstances, no good purpose could be served by setting aside the service. No case was found in which a defendant was permitted to set aside substituted service where there had been no prejudice—the papers having been received in time to enable an appearance to be entered. The situation would be very different if judgment had been signed before the process reached the defendant.

The plaintiff's solicitor had been diligent in the making of many errors, and the defendant's solicitor had been careful in searching for them. None of them could in any way mislead.

In *Dickson v. Law*, [1895] 2 Ch. 62, a motion to set aside a writ, because of somewhat similar errors, was dismissed with costs. In other cases the rule had been laid down that the Court ought not to interfere when the errors were not such as to mislead—e.g., where there was no place for entry of appearance, the defendant was not misled, for the writ was shewn to have been issued from the office of a local registrar, and the defendant's solicitor knew well enough what to do.

No one was seriously embarrassed in this case by the use of the words "High Court Division" at the head of the writ. The other objections had even less merit.

The case cited should not be followed as to costs; to give the costs to the plaintiff would only reward laxity of practice; nor should the defendant have costs; to give her costs would encourage motions without substance. Leaving each party to bear his and her own costs might serve a good purpose.

Motion dismissed; the time for appearance and defence being extended for 6 days after the date of this order.

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MIDDLETON, J.

MAY 4TH, 1917.

**\*RE LOSCOMBE.**

*Trusts and Trustees—Marriage Settlement—Appointment of New Trustee—Power of Life-tenants to Appoint—Loss of Writing Conferring Appointment—Recognition of Trustee by Deed of Life-tenants—Construction of Settlement-deed—"Surviving Children"—Children of Children not Surviving Excluded.*

Motion by E. W. Loscombe, as trustee under a marriage settlement, for the advice and direction of the Court as to the carrying out of the trusts of the settlement.