

against the original indebtedness, although the subsequent advances had been paid off. *Lloyd's Bank v. Cook* (1907), 1 K.B. 794, and *Brockelsbury v. Temperance P.B. Co.* (1895), A.C. 173, followed.

Coyne, for plaintiffs. *Dennistoun*, K.C., and *Craig*, for defendants.

KING'S BENCH.

Mathers, C.J.]

DAVIS v. BARLOW.

[June 12.

Contempt of court—Injunction, disobedience of—Notice of injunction by telephone and telegraph—Agent—Company—Contempt committed by its officer.

The defendant, as returning officer at an election of a member of the Provincial Legislature, had deposited his return with the Canadian Northern Express Co. at Neepawa, for transmission to the clerk of the Executive Council at Winnipeg. Later in the same day a judge of this court made an interim injunction order restraining the defendant, his servants and agents from making the return. The defendant was served with the order in sufficient time before the actual delivery to enable him to instruct the express company by telegraph or telephone not to deliver the return, but made no effort to do so, saying that he supposed he could not stop the delivery.

Held, that the defendant was bound to the utmost diligence in carrying out the order and was guilty of contempt of court, for which he was ordered to pay the costs of the motion. *Harding v. Tingley*, 12 W.R. 684, followed.

The officer of the express company whose duty it was to attend to the delivery of parcels was notified of the issue of the injunction both by telephone and telegraph the day it was issued, but nevertheless delivered the return the next morning shortly before the order itself was served upon him.

Held, that, the express company was guilty of a serious contempt of court and could not excuse itself by shewing that the disobedience was an act of its officer done without instructions or even in breach of duty. *Stancomb v. Trowbridge Urban Council* (1910), 2 Ch. 184, and *Rantzen v. Rothschilds*, 13 L.T. 399, followed.

His Lordship fined the express company \$1,000.

A. V. Hudson, for plaintiff. *Dennistoun*, K.C., for defendant. *Clarke*, K.C., for the express company.