

every candidate shall be distinctly printed in ink of different colours. By sub-sec. 4, it is provided that every ballot paper shall have a counterfoil attached thereto, and every ballot paper and every counterfoil shall specify the name of the electoral district for which it is to be used, and every ballot paper shall have a number printed on the back thereof, and the same number shall be printed on the face of the counterfoil attached thereto. The number mentioned in sub-sec. 3 is, of course, not the number mentioned in sub-sec. 4. The latter is the number which is to be on the face of the counterfoil and the back of the ballot paper for the express purpose of identifying the voter and finding out how he has voted. The former is the number of the candidate on the face of the ballot paper, and is nowhere referred to or mentioned in the Act, except in sub-sec. 3, and then only in connection with colour printing.

S. W. Burns and Eric N. Armour, for appellant.

C. H. Widdifield, Picton, for respondent.

OSLER, J.A.—Sub-sec. 2 is the only section which contains any positive enactment as to what is required to be printed on the face of the ballot paper, aside from its mere form. Nothing more seems necessary than the names of the candidates. For the rest, the ballot papers may be in the form given in the schedule. That is directory; and the form shows a number in a compartment to the left of the candidate's name, indicating the order in which it appears on the paper. This number is not to be regarded as an essential part of the ballot paper. The number might be an aid to an illiterate voter, but in the observance of any positive enactment (apart from colours), the error of the deputy returning officer in tearing off the number, ought not to work the destruction of the ballot, nor should the Act be strained in favour of the illiterate voter. Section 106 goes far enough in that direction. Section 2 is the mandatory clause as to what is to be printed on the face of the ballot, and as it says nothing about the number of the candidate, such number is not a material part of the ballot paper. Appeal dismissed. No order as to costs.

MEREDITH, J.

JUNE 30TH, 1902.

CHAMBERS.

PEOPLE'S BUILDING AND LOAN ASSOCIATION v.
STANLEY.

Execution—Costs of Application for Leave to Appeal to Court of Appeal—Power to Award Costs—Execution Issued out of High Court—Judicature Act, secs. 77, 119—Rules 3, 818, 1130.

Motion (heard at London) by defendant to set aside.