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HIGH COURT OF JUSTICE.

MIDDLETON, J., IN CHAMBERS.

OCTOBER 13TH, 1911.

CRINKLEY v. MOONEY.

Discovery—Examination of Defendants—Order for Particulars—Delivery after Examination of Defendants before Defence Filed—Attempt to Re-examine after Particulars Delivered and Defence Filed—Practice.

Appeal by the defendants from an order of the Local Judge at Stratford dismissing a motion by the defendants to set aside appointments taken out by the plaintiff for the examination for discovery of the defendant Mooney and an officer of the defendant company.

Featherston Aylesworth, for the defendants.
R. T. Harding, for the plaintiff.

MIDDLETON, J.:—Upon a motion by the defendants for particulars, made before defence, on the 23rd December, 1910, an order was made "that the plaintiff be at liberty to examine the defendant William James Mooney and some officer of the defendants the Mooney Biscuit and Candy Company Limited, for discovery, the said examinations for discovery to take place within 25 days." This order then provides for delivery of certain particulars within one week after the completion of the examination.

This order is not well drawn, as the plaintiff had the right to examine for discovery, and did not need any order giving him liberty to do so. In substance, it is an order for particulars after discovery is had.

An appointment was taken out for the examination of Mooney "both personally and as an officer of the defendant company," for discovery, and the examination was ultimately had on the 30th May, 1911. Particulars were given on the same day, and