

neither the solicitor of the company nor the company represented him in relation to any proceedings taken against the company, and that the service upon the solicitor of the company was therefore insufficient.

Held, further, that D. was not an officer of the company within the meaning of Order 40, Rule 44, and as such, liable to examination under the provisions of the order, the words "officer thereof" meaning an existing officer.

Held, further, that the order for the examination of D. was one that could not legally be made ex parte.

Held, further that the judge by whom the order was made had power to rescind it on application made to him for that purpose, and that such application, in the first instance should be made to him.

R. E. Harris, Q.C., and C. H. Cahan, for plaintiff.

W. B. Ross, Q.C., and H. McInnes, for defendant.

Full Court.]

FARRELL v. CARRIBOO GOLD MINING CO.

[May 8.

Trading corporation—Power to borrow money on mortgage—Payment of bonus—Amount affected by speculative character of security.

At a meeting of the defendant company a report was received and adopted, authorizing the directors to execute a mortgage to parties who had agreed to advance the sum of \$30,000, to enable the company to acquire certain mining property which they desired to purchase, and to include in such mortgage bonuses amounting in all to \$10,000.

Held, dismissing with costs the appeal of plaintiff, one of the shareholders, who objected to the transaction, that the company was a trading corporation, and, as such, had power to borrow money and to mortgage, and that as long as the terms upon which the money was borrowed and the mortgage given, were not illegal there could be no objection to paying a bonus for the accommodation obtained.

Held also, that, considering the speculative character of the property and the sum advanced, the amount of the bonus was not exorbitant.

J. M. Chisholm, for plaintiff.

Drysdale, Q.C., for defendant.

Full Court.]

CLAIRMENTE v. PRINCE.

[May 8.

Jury—Right to where cause is not exclusively of an equitable nature—R.S. (5th series), c. 104, s. 120—Amending Act as to notice held to enlarge right—Acts of 1888, c. 6—Costs.

Under R.S. (5th series), c. 104, s. 20, the right of either party to a cause to a jury is subject to rules of Court, and by O. 34, R. 2 it is provided that causes of an equitable nature are to be tried by a judge without a jury, unless it is otherwise ordered.

Held, in a case coming within the latter class, that the defendant was not entitled, by giving a jury notice, to prevent the trial of the cause before a judge at chambers, or in term.