To that extent the proceeding for which the affidavit was filed, has been disposed of, and so to the extent to which the restraining order has been made the right of cross-examination is gone: see Holmested and Langton, 672; Rule 490.

As to production, the defendants did not follow the course suggested in Lavery v. Wolfe, 10 P. R. 488, and on that ground I should be warranted in dismissing the motion, so far at least as it relates to non-production.

I propose, however, to consider the matter on its merits.

The motion is to commit for contempt:—

(1) In not producing before the special examiner the books, etc., referred to at questions 255, 256, 261, 334, 335, 336, and 337, and also other books, documents, etc., referred to in the said examination;

(2) For refusal to answer questions Nos. 198 to 201, 452 to 456, 510 to 513, 585, 620, 654, 657, 699 to 707, and 716 to 719, all inclusive; and

(3) For refusal to attend for the conclusion of his examination.

Or in the alternative for an order to Gurney to produce and to attend at his own expense and answer the questions above referred to and be further questioned.

It is very material in considering this matter to note that the examination is not for discovery. The cross-examination on an affidavit ought to be confined within reasonable limits. The defendants will no doubt avail themselves of their right to an order for production and of examination of an officer of the company for discovery. The production asked for as indicated by these questions, is of the following:

(*a*) A copy of the indenture between the plaintiff company and apprentices. The subject of indenture was introduced by question 217:—

"Do you have indentures for your apprentices?" Answer: "Yes."

From questions 217 to 261, the answers to all are full and frank, with nothing that would suggest any attempt or desire, on Gurney's part, to evade the question or frame an answer so as to avoid giving all the information in his power.

Q. 252.—"Do you state that the indenture makes provision for letting the apprentice off if he is guilty of any of these things." A.—"Yes, I think so, if I am not mistaken."

Q. 253.—"Have you a copy of that indenture?" A.—"Not with me."