

unsatisfactory answers upon his examination as a judgment debtor;

Held, that the examination should not be so conducted as to try to entrap the debtor, but it should be full, fair, and searching.

2. That the broad test to be applied in gauging the character of the answers, in order to determine whether they are satisfactory, is: Having regard to the circumstances of each particular case, are the answers sufficient to satisfy the mind of a reasonable person that full and true disclosure has been made?

3. That where the particulars wherein dissatisfaction is felt have been pointed out, an opportunity should be given to the debtor of reconciling what may be conceived to be contradictions, or supplying what may appear to be omissions.

4. That the ordinary rules for dealing with evidence in litigated matters where money or money's worth only is involved, are not to be applied without more to cases where the liberty of the person is at stake. And in the present case, where the examination was protracted and ranged over a period of more than two years, during which the defendant had had two lines of business going on, he was allowed an opportunity to protect himself by explanations upon various parts of his examination, relied upon as showing that a considerable sum of money had not been accounted for, being brought to his notice; and having been thus further examined, and it not having been shown that he had any means available to satisfy the judgment, and his answers as a whole being reasonably satisfactory, in view of the rules above laid down, a motion to commit was refused. History of the enactments contained in Rules 928 and 932.

Hoyle for the plaintiff.

C. J. Holman for the defendant.

BOYD, C.

[Oct. 23-24.]

GARDNER v. BURGESS.

Receiver—Rents and profits of mortgaged premises—Actions by mortgagees—Leave to proceed—Petition—Receiver's costs of appearing on—Tender of costs—Rule 1193.

Where actions were brought by mortgagees without the leave of the Court for sale of mortgaged premises, after the appointment of a receiver to receive the rents and profits of such premises, an order was made, upon the petition

of the mortgagees, allowing the proceedings in the actions to stand, and allowing the petitioners to proceed with the actions notwithstanding the appointment of the receiver.

The receiver was served with notice of the presentation of the petition, and appeared thereon by counsel. The petition, besides praying for the relief which was granted, asked in the alternative that the receiver might be discharged, or that he might be ordered to pay the petitioners the arrears of principal and interest due on their mortgages, and the costs of the actions and the petition.

Held, that if the petitioners wished to protect themselves from paying costs they should have proceeded under Rule 1193, and tendered the receiver \$5 with the petition; and this not having been done, and the relief asked in the alternative prayers being such as justified the appearance of the receiver, the receiver was entitled to be paid his costs by the petitioners; and the petitioners were allowed to add the sum so paid and their own costs to the mortgage debt.

Gunther for petitioner.

A. Woldi for receiver.

GALT, C.J.]

[Oct. 25.]

LLOYD G. WARD.

Close of pleadings—Default note—Time—Delivery, service, and filing—Rules 7, 371, 393, 398, 480.

The last of the eight days within which the defendants should have delivered their statements of defence, as required by Rule 371, was Saturday, the 12th October.

Rule 7 prescribes that the offices of the Court shall be kept open from ten a.m. to three p.m., except on holidays, etc.

Rule 480 prescribes that service of pleadings shall be effected on Saturdays before the hour of two p.m., and that service effected after two shall be deemed to have been effected on the following Monday.

Rule 393 provides that where any party makes default in delivering a statement of defence, the officer with whom the pleadings are filed may enter a note that the pleadings are closed.

Rule 398 says that delivering a pleading includes filing.

On Saturday, the 12th October, at twenty-five