

Sections 107 to 133 are headed "Procedure," but they apply generally to proceedings under a winding-up order, that is, after it has been made, and not to this preliminary application for such an order. Section 116 is the only one which relates in terms to a step before the winding-up order is made, and that is of a conservatory character. Sections 134 and 135 relate to "Rules, Regulations, and Forms." Section 134 provides for the Judges making "forms, rules, and regulations," to be followed and observed in proceedings under the Act, but no action has been taken in this direction; so that sec. 135 now controls the situation applicable to the present motion. It reads: "Until such forms, rules, and regulations are made the various forms and procedures . . . shall unless otherwise specially provided be the same as nearly as may be as those of the Court in other cases." No other special provision has been pointed out to me, nor do I know of any which derogates from this sweeping direction as to the method of procedure. I read the word used "procedure" as including rules, and regulations, and methods of practice current in the High Court of Justice (sec. 2e), which are to be adapted as nearly as may be to the uses of the profession under the Winding-up Act. The marginal gloss is not of authority, but it is correct as found opposite sec. 135, to wit: "Until rules are made procedure of Court to apply." The practice of the Court is to support petitions by affidavits or by *viva voce* evidence of witnesses under the Consolidated Rules in that behalf, 489, 491, 492. Substantially the very matter now in dispute was decided as I now decide in earlier cases: see *Re Belding*, 18 O. W. R. 670.

I see no reason why the directors should not be examined as witnesses. They know more about the internal affairs of the concern than any other, or should have such knowledge, and the shareholders should not be deprived of this source of information when no imputation of *mala fides* exists. The policy of our legal methods is to facilitate and to simplify proceedings, and English cases in other conditions cannot control what is the manifest intention of the law-makers as set forth in this Winding-up Act.

All I now decide, is that, it is competent for the petitioners to examine the directors and the procedure taken is right.

The application must be dismissed with costs.