

If the defendant Lovell is unable, for any reason, to give the discovery sought, I shall under Rule 493 make an order for the examination of Mr. Anglin or such other witness as may be necessary.

(2) Mr. Wright has all the papers of his client Foster in a box. These he will produce in the examiner's office, except such as are communications between solicitor and client; these are in the case of Mr. Foster privileged. The strictly regular course to pursue is for Mr. Wright at the examination to produce and put in, if asked, all papers bearing upon the issue, pledging his oath as to the remainder, the examiner ruling upon such as are not put in, as in the case of Lovell. Mr. Wright cannot be compelled in advance to go over the papers and arrange them or divide them into such as he thinks should and should not go in. No doubt, the good sense of counsel for the plaintiff will find a way to avoid the great waste of time this course would necessitate. No doubt, Mr. Wright will, upon being paid a reasonable fee for his loss of time, go over the papers in advance and arrange them suitably. Mr. Wright, not being a party, need not produce his docket or make any inquiry to qualify himself to speak by hearsay—he may do either if he desires. He need not answer from anything but his own knowledge.

(3) Massey Morris is the banker through whom Mackenzie had the transaction carried out. He will produce all correspondence between the Toronto branch and the head office of the Canadian Bank of Commerce, and all correspondence and other papers relating to the purchase; so far as these tend to shew that the purchase was for Case or Case and his associates, they are relevant and are to be admitted in evidence; the Master will rule as in Lovell's case.

I reserve to plaintiffs leave to apply upon notice for any further or other order necessary to enable them to obtain full discovery.

The costs of this application will be to the plaintiffs in any event, as against Lovell and the Dominion Brewery Company Limited, except as to so much thereof as may have been occasioned by including in this motion the motion against Mr. Wright; as to these extra costs, there will be no order. None of the witnesses is entitled to the costs of appearing upon this motion.

The witnesses will attend at their own expense to be further examined.