

THE MASTER:—The motion is supported only by an affidavit of the defendants' stenographer. This states that no officers of the company were then in the city, but that she stated to the sheriff's officer that she was in charge of the office under the instructions of the secretary, but that she did not intend it to be understood by him that she was a person on whom service could validly be effected.

The affidavit in answer shews that, before the service now objected to, defendants' solicitors had received writ and forwarded same to see if they were to accept service, and that afterwards they returned it, saying that they had no instructions. The service attacked then was made, and the solicitors entered a conditional appearance without leave, as required by Rule 173.

It was stated in argument that defendants desired time. This could have easily been obtained without taking a step not allowed by our practice, whatever may be the case in England.

As it is, the service seems regular under Rule 159 (b), and in any case the issue of the writ has been known to defendants ever since 8th July, as appears by letter of the defendant Harlan, and the present motion is made on behalf of the defendants, and on their instructions.

Under all the circumstances, I think the motion cannot succeed, and should be dismissed with costs to plaintiff in any event.

If, after the delivery of the statement of claim, the defendants require time for pleading, it can be granted on proper terms.

It is to be observed that the object of Rules 146 and 159 is to require that service, if not personal, shall be made on some one who it may be safely affirmed will bring the matter to the notice of the necessary parties. This has been done in this case, and the motion is therefore useless.