

or by the witness at the instance of or upon the advice of counsel, it is not a case of contempt or of committing for refusal. The validity of the objection should be determined by the Court or a Judge, and Rule 492 makes the cross-examination upon an affidavit subject to the same rules as apply to the examination of a party for discovery—so Rule 455 applies.

The notice of motion is as to Gurney's refusal to answer questions numbers 198 to 201. The questioning had been in regard to apprentices and journeymen in other shops, and then

Q. 196.—“The other establishments, in business, manage to get along with that?” A.—“No, they are always very short of help.”

Q. 197.—“Have they ever complained to you?” A.—“Bitterly.”

Q. 198.—“Who have?”

Mr. DuVernet objected.

Mr. Gurney: “I do not wish to bring my friends under the ban of the union.”

Mr. DuVernet: “That has nothing to do with it. I would like the examination confined to some reasonable limits.”

Mr. O'Donoghue: “The witness has sworn here that they require a large number of apprentices.”

Mr. DuVernet: “I decline to allow the examination to proceed on that line, on the ground that it does not come under the affidavit and is not relevant.”

Ruling of special examiner:

“I admit the question subject to the objection. I think the question is within the affidavit, arising as it does out of previous answers of the witness.”

Q. 198.—“You refuse, then, to say who it was made the bitter complaints to you?” A.—“Yes.”

Q. 199.—“You recollect who made the complaints?” A.—“Perfectly.”

Q.—“Recently?” A.—“Recently.”

Q. 201.—“Since this suit was started?”

Mr. DuVernet: “I object to the question.”

I am of opinion that the objections to these questions were quite proper. It seems to me entirely immaterial that other establishments were short of help, and that persons in other establishments complained to witness; and the witness was quite right in refusing to give the names of persons so complaining.