

behalf order that the said E. R. Reynolds, upon being served with an appointment issued by one of the special examiners of the Court, do attend before such examiner and do submit to be examined upon oath by or on behalf of the plaintiff as to the names and residences of the shareholders in the defendant corporation, the amount and particulars of stock held or owned by each shareholder, and the amount paid thereon and as to what debts are owing to the defendant corporation, and as to the estate and effects of the defendant corporation, and as to the disposal made by it of any property since contracting the debt or liability in respect of which judgment has been obtained by the plaintiff in this action."

C. A. Masten, K.C., for the plaintiff.
E. R. Reynolds, in person.

SUTHERLAND, J. (after setting out the order as above):—On the motion it was contended on behalf of the plaintiffs in the action that the examination of Reynolds was intended, under the said order, to be as wide as in the case of an officer of the defendant corporation.

Mr. Reynolds, who appeared in person, contended for a very strict construction of the terms of the order, which he said was made under Rule 910. He seemed to rather contend that the order as drafted had gone farther than it should have gone or was intended. By a reference to paragraph 2 already quoted, it would seem to have been made under the provisions of Rule 910, but when Rule 902 is referred to, the remaining part of said paragraph 2 seems to have been drawn so as to make the order applicable under that section also.

I was not referred by either counsel to any written judgment of the Divisional Court. It appears that the reasons for the judgment were delivered orally at the time. A written judgment was, however, handed down later, which contains the following statement:* "We agree with the judgment in review that a director is an officer who may be examined under the provisions of Con. Rule 902. If there could be any possible doubt as to the correctness of this, the case is one in which an order might well be made for examination under Con. Rule 910."

It seems to me that the plain intention of the order of the Divisional Court was that Reynolds should be examined in as wide and full a manner as though he were an officer of the company. It appears that he was one of its provisional

*NOTE.—A note of the judgment appears *ante* 219.