So long as Rule 491 remains a rule of practice, I think any party to an action having in good faith served a notice of motion may insist upon the attendance for examination of any witness; and, speaking generally, insist upon such witness answering all relevant questions as though he were called at the trial. Of course, it may happen that there is some preliminary question first to be disposed of, but in general full disclosure must be made: cf. Northern Iron and Steel Co. v. Solway & Cohen, 9 O. W. R. 709.

The defendant Lovell is a clerk in the office of Messrs. Blake, Lash, & Cassels, solicitors, and is the trustee through whom the transaction was carried out. That firm used his name in "the correspondence that passed shewing the negotiations with respect to the purchase and the carrying out of the purchase, and the disputes arising and how those disputes were settled." Lovell says he has not the custody of these, and the member of that firm who attended on the examination refused to produce them. A letter was written, probably more than one, by that firm to England, and one at least was signed by Lovell. Lovell does not know the contents of these letters, the whole matter having been in the hands of Mr. Anglin.

He must make all proper investigation to enable him to produce all documents in his power, and must produce them in the examiner's office, which were written to or by the said firm as solicitors for Mackenzie, in connection with this purchase, etc. Such of these documents as shew, or tend to shew, that the purchase was in reality for Case, or Case and his associates, must be allowed to be put in evidence. Any document as to which the witness pledges his oath that it does not, in his opinion, so tend, may be ruled upon by the examiner, subject to motion in the usual way. Counsel for the plaintiffs will not be entitled to see the document in respect of which the examiner rules adversely. See Williams v. Quebrada R. L. & C. Co., [1895] 2 Ch. at pp. 757, 758.

Upon the argument of the question of admissibility, after the examiner has expressed his opinion in favour of admitting any document, counsel for all parties have a right to be heard. After argument the examiner may adhere to his ruling, in which case the document will be admitted, or change it, in which case the document will not be admitted.

Charges of fraud having been made apparently in good faith against Mackenzie, privilege does not exist: Rex v. Cox, 14 Q. B. D. 153; Williams v. Quebrada R. L. & C. Co., [1895] 2 Ch. 751.