on production from the plaintiff. Mr. Cartwright, M.C., set this aside, and his judgment was confirmed on appeal by Moss, J.A. The learned Judge (Hon. Sir. Chas. Moss, C.J.O.), pointed out p. 504: "The usual practice of examining the plaintiff for discovery has not as yet been adopted in this case," and p. 505: "this appears to me to be in substance an attempt to cross-examine the plaintiff upon his affidavit on production under cover of a motion which, if made at all, should follow and be based upon the outcome of the means usually adopted under the Rules and practice for obtaining from a party information and discovery as to documents in his possession or power beyond that already furnished by the affidavit on production."

So far is this from deciding that the opposite party cannot obtain by an examination for discovery information as to documents supposed to have been left out of the affidavit—that is (as it seems to me), certainly approves of the "usual practice of examining . . . for discovery," and of an application for a better affidavit based upon the outcome of such practice.

In *Standard* v. *Seybold* (1902), 1 O. W. R. 650, the defendant had filed an affidavit on production sufficient in form; he was then examined for discovery, and asked whether he had signed a document Exhibit 6, then produced to him. He said that according to his recollection he had never signed any such document; the plaintiffs then "deliberately closed their examination," and moved for an order (1) that the defendant should file a further and better affidavit on production, and (2) that he should attend again for further examination. The Local Master at Ottawa refused to make the order; on appeal the Chancellor reversed the decision and made the order asked for—the defendant then appealed to the Divisional Court which Court allowed the appeal. The grounds—wholly sufficient ground as must be admitted—are these. As to making a better affidavit, the deponent did not admit that he had or ever had had the document—as to the other part of the motion, the plaintiffs had deliberately closed their case. In the report in 1 O. W. R., at p. 661, the C. J. C. P., who gave the judgment of the Court is represented as saying "as was determined by Mr. Justice Moss in one of the cases referred to (*Dryden* v. *Smith*, 17 P. R. 500, 17 Occ. N. 262), the opposite party may not indirectly, by means of an examination for discovery do that which he may