fully disobeyed the order of the Court: Ex p. Langley, 13 Ch. D. 110.

Motion refused with costs to defendants in any event.

MacMAHON, J.   JULY 20TH, 1904.

TRIAL.

ELGIN LOAN AND SAVINGS CO. v. LONDON GUARANTEE AND ACCIDENT CO.

Principal and Surety—Guarantee Policy—Fidelity of Manager of Loan Company—Misappropriation of Moneys—Release of Surety—Insufficient Audit—Change in Duties of Manager.

Action upon a guarantee policy issued in favour of the plaintiffs the Elgin Loan and Savings Co., whereby the defendants agreed to make good, to the extent of $2,500, any loss sustained by reason of the embezzlement of money by George Rowley, the manager of the loan company, during the continuance of the agreement of guarantee. Plaintiffs (the Elgin Loan and Savings Co., a Provincial corporation, the Elgin Loan and Savings Co. Limited, a Dominion corporation, and the London and Western Trusts Co., the liquidators of the two companies) alleged that Rowley during the continuance of the agreement embezzled large sums of money, the property of the Elgin Loan and Savings Co., and claimed $2,500. The defendants alleged that there was no proper audit of Rowley's accounts, as required by the terms of the policy, and that a change was made in the duties of Rowley without notice to defendants.

W. K. Cameron, St. Thomas, and C. F. Maxwell jun., St. Thomas, for plaintiffs.

J. B. Clarke, K.C., and T. W. Crothers, St. Thomas, for defendants.

MacMAHON, J.—The guarantee of defendants began in 1897, and was renewed from year to year, the last renewal receipt being dated 27th February, 1903. Rowley was manager of the Elgin Loan and Savings Co. from its formation in 1879 until its failure in June, 1903. There was no other employee of the company, and he kept the books, received and paid out all the moneys, and made the deposits in the bank. He began misappropriating the moneys in 1888, and kept a private ledger in which he entered the moneys misappropriated from the moneys received from the depositors; and he stated that in 1897 his defalcations amounted