

ARE BOOKS INVIOLATE?

COUNSEL REFUSED A SEARCH.

Komesaroff Insolvency.

For the fourth day, Judge Moule, in the Insolvency Court yesterday, investigated the affairs of Peter Komesaroff, draper, Geelong, and elsewhere. The statement filed by the insolvent showed a deficiency of £5,110/18/5. Mr. Stanley Lewis and Mr. Tait appeared for the trustee (Mr. E. W. Smail); Mr. Read for S. Komesaroff (the brother of the insolvent); Mr. Menzies and Mr. Morris for A. H. Sierce, of the A. B. Y. Manufacturing Co.; and Mr. Ah Ket for the insolvent.

Recalled, Sierce explained the loan of £80 given to the insolvent. On August 27, the A.B.Y. Company drew a cheque for Mrs. L. Sierce for £80, which was given to Solomon Komesaroff, and paid into the insolvent's account. On August 28 the A.B.Y. was repaid, cheques for £36 and £50 being given by his mother and the witness respectively. The witness then drew an exchange cheque on the A.B.Y. for £80 and gave it to Komesaroff, who repaid the money on November 12, after two cheques had been dishonoured.

Judge Moule.—So, after many vicissitudes, you got it at last. Was this a real transaction, or was it not?

Mr. Lewis.—Did you, in fact, debit that cheque to anybody on August 27?

Witness.—Yes; Mrs. Sierce.

Judge Moule.—And Mrs. Sierce knew no more about it than the man in the moon, and neither did the brother. I do not think any cash passed.

Mr. Lewis was proceeding to put some questions to the witness relative to several entries, which Mr. Tait had come across in the private ledger, when the witness objected, and said that these transactions had nothing to do with the case. If these matters were made public the witness and the firm concerned would be harmed in business.

Judge Moule upheld the contention, and said that it would be most improper to use the books for such a purpose.

Mr. Lewis said that it was of the utmost importance to find out which of these parties were acting together. He went

parties were acting together. He went further, and said that his questions were designed to show that all these transactions were part of a scheme of the insolvent to distribute his assets among a little band of his friends.

Judge Moule.—Then you must do so without making public private transactions which these men had with other people.

Mr. Lewis.—I want to prove fraud among a band of people, and unless I drive my points home with questions based on entries in the books I can never succeed. All I am asking is liberty to go through the books for the purpose of tracing the relations the witness had with the insolvent.

Judge Moule.—You will have the right when you have laid the basis of a charge of fraud; but until you lay that foundation I do not think you have any such right. It is a dangerous thing to meddle with private affairs.

Mr. Lewis.—I think I have laid sufficient foundation of questionable business to justify me in examining every one of the books produced.

Judge Moule.—I do not think so.

Mr. Lewis.—I respectfully protest, but I leave it at that.

Solomon Kowesaroff, draper, Clifton Hill, trading as the Hub Drapery, at Smith street, Fitzroy, said that during 1923 he gave his brother various loans, two or three of which were for £100 each. In October and November he got goods to the value of £142 and £212 from his brother in payment of the loans. The insolvent told the witness that he was unable to pay cash.

Mr. Read said that his client was wrong.

Judge Moule.—Your counsel is saying you are behaving like a fool, and he is trying to protect you.

The examination was adjourned until today, and the insolvent was given liberty to go to Western Australia, provided that satisfactory bonds are entered into for his reappearance in the second week of April.
