

BOYD, C., ROBERTSON, J.]

[May 4.

SMITH v. BOYD.

*Particulars—Application for—Close of pleadings—Discretion.*

Particulars are ordered with reference to pleading, while examination for discovery is used to get at the knowledge of the adverse litigant ; it is only in exceptional cases that particulars are ordered after the close of the pleadings.

And where, in an action by the plaintiff against his former partner and another, for conspiracy to ruin the business of the firm, the defendant partner set up the defence that the business was ruined by the wrongful withdrawals and overdrafts of the plaintiff, and by his mismanagement, negligence, fraud and embezzlement, and certain particulars were given thereunder, as to which the defendant swore that they were given with as much detail as he could command, showing how the business had been conducted, and the shortages which had arisen, for which he alleged the plaintiff was responsible as the acting partner.

*Held*, that the discretion exercised in Chambers in refusing to order further particulars, after issue joined, and notice of trial given by the plaintiff, should not be interfered with.

*H. D. Gamble*, for the plaintiff.

*H. S. Osler*, for the defendant Cooper.

STREET, J.]

[May 5.

BOYD v. DOMINION COLD STORAGE CO.

*Costs—Defendant company in liquidation—Liquidator intervening—Personal order for costs.*

After the action was at issue an order was made for the winding-up of the defendant company and a liquidator was appointed by a Court in the Province of Quebec. The plaintiff then obtained leave from that Court to proceed with this action. Afterwards the liquidator obtained an order from that Court authorizing him to intervene and defend this action in his own name as liquidator ; he then applied to this Court in this action, and obtained an order that the action proceed in the name of the plaintiff against the company and the liquidator.

*Held*, that the liquidator, having thus intervened and made himself a party to the action, and having appeared by his counsel at the trial and contested the claim of the plaintiff, the latter, having succeeded upon his claim, was entitled to a judgment for his costs both against the company and the liquidator personally.

This Court had no authority to direct that the liquidator might reimburse himself out of the assets ; that was a question for the Court in the Province of Quebec having control of the assets.

*Osler, Q.C.*, and *Moss, Q.C.*, for the plaintiff.

*George Bell*, for the defendants.