

partnership account and damages for such breach, and for conspiracy, questions were answered by the last named defendants admitting the formation of a company to carry on the said business, and the subsequent payment to the first mentioned defendant of \$20,000; but they refused to answer questions tending to elicit the source of said sum.

*Held*, reversing the order of Master in Chambers, that such questions were irrelevant, and need not be answered.

On such examination the defendants also refused to answer questions relating to certain agreements which defendants had procured to be entered into for the purchase of the said plants, and which, the plaintiff claimed, were in substitution of the agreements procured by the alleged partnership.

*Held*, affirming the order of the Master in Chambers, that such questions were relevant, and should be answered.

In an affidavit on production made by one of the defendants, who was also the solicitor, it was stated that a search had been made for certain documents, viz.: the said cheque, and a memorandum in writing containing the purchase prices of said plants, but that they could not be found; and that as to the said agreements they were in defendant's custody, as solicitor.

*Held*, reversing the judgment of the Master in Chambers, that the affidavit was sufficient, and a motion for a further and better affidavit was refused.

*F. A. Anglin*, for plaintiff. *C. W. Kerr* and *Ryckman*, for defendants.

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Meredith, C.J.]

RE GOUGH ESTATE.

[Dec. 14, 1901.

*New trustees—Appointment of—Married woman.*

Under a will, three trustees and executors were appointed, to one of whom only probate was granted, one of the other two dying before probate was applied for, and the other having renounced. The estate was duly administered, and the trusts carried out by such executor and trustee, with the exception of certain property which had been devised to a daughter for life, and after her death to be sold and the proceeds divided amongst testatrix's children. On the death of, or vacancy occurring, as to any one of the trustees, the remaining two could fill up the vacancy, and in the case of there being only one trustee left, he was empowered to apply to the Court to have the vacancies filled up.

On an application by the said trustee to the Court, two additional trustees were appointed, one of whom was a married woman, with whom the said daughter, who was in delicate health, resided, and who was taken care of by her.

*J. E. Day*, for petitioner. *Harcourt*, for official guardian.