

the syndicate (see *Blake v. Albion*, 4 C. P. D. 94), whoever might be the persons composing it.

After this it seems strange that Lawson's affidavit only mentions 3 letters from plaintiff's solicitors to himself in first schedule, and that second and third schedules are blank.

Without passing on the other affidavits at present I think Lawson should certainly make a further affidavit that the costs of this motion should be to plaintiff in any event.

The principle of discovery is well settled. What is relevant is determined by the rule given in Bray's Digest of Discovery (1904) sec. 6, p. 2 and Bray (1885) p. 18. "The case of the party seeking discovery must be assumed to be true" if the materiality of the discovery sought for is questioned, "otherwise a party might shut out his opponent from discovery" essential to support his case by simply denying that case."

The agreement out of which this action arose is said by Mr. Lawson in his first examination on 5th November last at qu. 4 to have been signed in his name, "to which I had no objection"—and to have been brought to him as would naturally be done—*prima facie* it belonged to him. On the principles regulating discovery and those which justify an order for a further affidavit by a litigant, I think it certain that this document should have been mentioned in some part of Mr. Lawson's affidavit on production which was filed on 16th December last. And that this omission of itself in his affidavit (and perhaps the same objection could be taken to the other affidavits) is a sufficient ground for the present order. The defendant will be wise to exercise care in framing the further affidavit to avoid the necessity of a renewal of the motion.