

it unnecessary to consider two preliminary points, which were by no means clear. The first was, whether such an agreement is assignable, as it was made only with Stavert. Then, if that were properly answered in the affirmative, it would still have to be determined if the indenture of the 5th May, 1911, by which Stavert purported to assign to Clarkson all the trust estate, etc., carried with it the right to enforce the agreement of the 13th January, 1909. The words used did not contain any express mention of this document; and it certainly formed no part of the trust estate conveyed to Stavert, as it was not at that time in existence. Whether it was included in the words, "all books of account, papers, and other documents of the Sovereign Bank of Canada," was a question on which opinions might well differ. Probably the existence of this document was not present to the mind of the draftsman; and, even if the other two difficulties were got rid of, this might still prevent the success of the plaintiff's motions. The Master still adhered to what he said in the Stavert cases, ante 265, that the change from Stavert to Clarkson constituted for some purposes a new action; and he was of opinion that this change in the situation thereby created might give the defendants the right to recede from the agreement with Stavert, even if otherwise binding on them. In view of all these considerations, it would be impossible to give summary judgment without acting in disregard of the judgment of the Divisional Court in *Farmers Bank v. Big Cities Realty and Agency Co.*, 1 O.W.N. 397. Motions dismissed with costs to the defendants in the cause. F. R. MacKelan, for the plaintiff. F. Arnoldi, K.C., for the defendants.

---

CALDWELL v. HUGHES—MASTER IN CHAMBERS—JAN. 31.

*Particulars—Statement of Defence and Counterclaim—Postponement till after Examination of Defendant for Discovery—Leave to Examine before Pleading to Counterclaim.*]—Motion by the plaintiff for further particulars of the statement of defence and counterclaim. The action was brought by the plaintiff, as administratrix, to obtain a settlement for the business done by her deceased husband with the defendant. The whole matter was one of account, and, the Master said, would probably be referred, unless some settlement should be reached by the parties. The statement of defence and counterclaim consisted of 30 paragraphs, and was very unusually minute and detailed. Particulars were demanded of 17 of these, and had