Divisional Court.] [March 20.

SHEPPARD PUBLISHING COMPANY v. HARKINS.

Master and servant—Servant engaging in other business—Right of master to profits—Contract for exclusive service—Damages.

A servant who enters into a contract to devote his entire time and attention to the interests of his master and to engage in no other business, is liable in damages for the breach of that contract; but if he does work in a different capacity and does not use time which should be devoted to his master's business, or engage in competitive undertakings, he is not liable to pay to his master the earnings or profits received by him in respect of such work.

Judgment of IDINGTON, J., varied.

Aylesworth, K.C., and *W. J. Elliott*, for appellants. *Riddell*, K.C., and *W. T. J. Lee*, for respondent.

Master in Chambers.] [March 24.

TORONTO INDUSTRIAL EXHIBITION ASSOCIATION v. HOUSTON.

Evidence—Foreign commission—Interrogatories.

There is no power at the instance of the opposite party to strike out or modify interrogatories prepared by the party who has obtained an order for a foreign commission. He may frame them as he pleases taking the risk of the evidence being rejected in whole or in part by the judge at the trial.

F. R. Mackelean, for plaintiffs. *Grayson Smith*, for defendant.

Clute, J.] [March 24.

CANADIAN PACIFIC RY. CO. v. OTTAWA FIRE INS. CO.

Fire insurance—Standing timber—"Property."

The defendants, an insurance company incorporated under the laws of Ontario, insured the defendants, a railway company, having a branch line in the State of Maine, "against loss or damage by fire . . . on property as follows: On all claims for loss or damage caused by locomotives to property located in the State of Maine not including that of the assured." By the statute law of the State of Maine where "property" is injured by fire communicated by a locomotive engine the railway company is made responsible and it is declared to have an insurable interest in the property along its line for which it is responsible:

Held, that the policy in question was in consequence of this statutory provision a valid policy of fire insurance and not an