

Boyd, C., Ferguson, J.] EVANS v. JAFFRAY. [May 16.

*Parties—Joinder of causes of action—Partnership account—Conspiracy.*

An appeal by the plaintiff from an order of MEREDITH, C.J., in Chambers, reversing an order of the Master in Chambers dismissing a motion made by the defendants other than Jaffray, for an order requiring the plaintiff to elect to proceed either against the defendant Jaffray only or against all three defendants on the second branch of his claim. The relief sought against the defendant Jaffray was an account and damages for breach of a partnership agreement between him and the plaintiff; and that sought against the other defendants was damages for the malicious procuring of the breach by the defendant Jaffray and for conspiracy.

*Held*, that, despite the form of pleading, there was such unity in the matters complained of as between all parties as justified the retention of the co-defendants. The plaintiff sued as a partner of Jaffray, the chief defendant, and alleged that at a point of time Jaffray was, by unfair means adopted by his co-defendants, induced to ignore the plaintiff and to proceed in company with them so to deal with the partnership plant and assets as to make large profits; and that they all were liable to the plaintiff therefor. He asked an account of the partnership, and that it be wound up, which involved the bringing in of all defendants before the Court, not merely the original partner, but those who had wrongly intervened to make and share profits from handling and using partnership assets. *Kent Colliery Co. v. Martin*, 16 Times L.R. 486, specially referred to. Appeal allowed. Costs in the cause.

*F. A. Anglin*, for plaintiff. *Riddell*, K.C., for defendant Jaffray. *C. W. Kerr*, for other defendants.

Falconbridge, C.J.] IN RE STRATHY TRUSTS. [May 17.

*Trustee—Investment—Shares in company—Conversion.*

A testator residing in Kingston, Ontario, bequeathed shares in the Royal Electric Company of Montreal, a commercial incorporated company, to his wife for life, with remainder to five children. No power was given to vary or reinvest. The company being about to be merged in the Montreal Light, Heat and Power Company, application was made under the Trustee Act for a direction as to whether the executrix of the will might take stock in the new company, such stock not being an investment authorized by the Trustee Investment Act. There was evidence that the conversion would be for the benefit of the estate.

*H. M. Mowat*, K.C., for the executrix and life tenant, cited *In re Pugh* (1887) W.N. 143; *In re Household*, 27 Ch. D. 553; *Vaizey's Trustee's Investments*. No one appeared for the remaindermen.

FALCONBRIDGE, C.J., said that, as it was manifestly for the benefit of the estate, an order might go authorizing the investment in the new company.