

said son "leaving more issue the remainder to be equally divided among them; and in case of her death and her said son leaving no other issue then the (said) sum to revert back to C." On the death of K. she was survived by her said son A. and two other children.

*Held*, that the fund vested absolutely on the death of K. in her three children, and that it was not the meaning of the will that the fund vested in C. in event of A. dying, leaving no brother or sister surviving him.

*A. I. Trueman*, K.C., for plaintiffs. *C. V. Skinner*, K.C., for defendants.

Barker, J.] CUSHING SULPHIDE CO. *v.* CUSHING. [March 17.

*Practice—Discovery—Production.*

Where inspection is sought of documents supposed to be in the possession of the opposite party an order should be obtained under s. 59 of 53 Vict., c. 4, for discovery by affidavits as to what documents are in the opposite party's possession when an order may be made under s. 61 for their production and inspection.

*Barnhill*, for application. *A. H. Hanington*, K.C., contra.

ST. JOHN COUNTY COURT.

Forbes, Co. J.] BELYEA *v.* HATFIELD. [April 3.

*Practice—Pleadings in County Court—Action against an administrator.*

Where defendant sued in the County Court as administrator pleaded that intestate was never indebted, and for a second plea, plene administravit, the Court ordered the second plea to be struck out on the ground that more than one plea can only be pleaded by leave of the Court.

*G. H. V. Belyea*, plaintiff in person. *Porter*, for defendant.

Province of Manitoba.

Full Court.] THORNE *v.* JAMES. [March 7.

*Negligence—Contributory negligence—Remoteness of damages—Voluntarily incurring risk.*

Appeal from verdict of a County Court Judge in favour of the plaintiff in an action to recover damages for the loss of a team of horses by fire alleged to have been caused by the negligence of the defendant's servants. Defendant was the owner of a threshing machine and a portable steam engine and carried on the business of threshing for farmers through a fore-