

## KING'S BENCH.

Metcalfe, J.]      SHAW v. CITY OF WINNIPEG.      [May 3.

*Practice—Discovery—Officer of corporation—King's Bench Act, Rule 387.*

In an action against a city corporation for damages occasioned by the negligence of an employee of the water works department of the city in discharging his duty of examining a water meter in the plaintiff's premises, the plaintiff has a right, under Rule 387 of the King's Bench Act, to examine for discovery a water meter inspector of the city as an officer of the corporation. *Dixon v. Winnipeg Electric Railway Co.*, 10 M.R. 660, followed.

*Dennistoun, K.C., and Young, for plaintiff. T. A. Hunt, for defendants.*

Richards, J.A.]      [April 7.

WHITE v. CANADIAN NORTHERN RY. CO.

*Negligence—Common employment—Liability of employer for injury to workman caused by negligence of foreman—Workmen's Compensation for Injuries Act—Duty of persons who cause others to handle specially dangerous things.*

The death of the deceased was caused by carelessness and ignorance in the handling of dynamite by the deceased and a fellow workman named Anderson employed by the road-master of defendants to look after the work. According to the answers of the jury, Anderson was not a competent person to be so employed, and the road-master was aware that he was not and there was, in the opinion of the judge, evidence sufficient to warrant the findings of the jury.

*Held*, 1. The plaintiffs could not recover under Lord Campbell's Act because the road-master was a fellow workman with the deceased.

2. The plaintiffs were entitled to recover \$1,500 in all under the Workmen's Compensation for Injuries Act, R.S.M. 1902, c. 178, because, by the jury's findings, the death was caused by reason of the negligence of a person in the service of the employer who had superintendence entrusted to him whilst in the exercise of such superintendence: par. (b) of s. 3.

*Dominion Natural Gas Co. v. Collins*, 79 L.J.P.C., p. 16, followed, as to the duty of those who cause others to handle specially dangerous things.

*Deacon and Kemp, for plaintiffs. Clark, K.C., for defendants.*