

Full Court.]

SIMPKIN v. PATON.

[Oct. 14.

Contract—Claim against estate of deceased person—Corroboration—Executor and administrator.

The plaintiff sued the executors of one Reid for services rendered in taking care of a child of Reid after his death. She had been engaged by Reid as a nurse to attend him in his last illness, and her evidence was that Reid, previous to his death, asked her to continue in the house and to look after his wife and child, and that deceased had said: "If anything happens will you promise that you will stop with her." There was no corroboration of the plaintiff's testimony as to the promises made her by the deceased.

Held, allowing an appeal from the verdict of a County Court in plaintiff's favour, that the evidence of the alleged contract was open to two constructions: (1) that the plaintiff was to stay with Mrs. Reid if anything happened to the testator, (2) that she was to take care of the child; and, the plaintiff having contended that Reid meant she was to stay with the child and take care of it, each may have intended a different thing and consequently no contract was clearly proved, also that corroboration of the plaintiff's evidence was necessary in this case.

Deacon, for plaintiff. *Blackwood*, for defendants.

Full Court.]

[Oct. 26.

VULCA IRON WORKS v. WINNIPEG LODGE NO. 122.

Practice—Production of documents—Striking out defence for non-production.

Action for \$25,000 damages for intimidation, coercion and conspiracy, arising out of a strike at the Vulcan Iron Works in 1906. By an order of the court the defence of the defendant, Thomas Howe, was made to stand as the defence of all the members of the Iron Moulders' Union of North America Lodge No. 174. It appeared during the suit that a bill of grievances and certain pay rolls used during the strike of 1906 were sent to the parent organization of the iron moulders at Cincinnati, Howe, on his examination for discovery, refused to produce these on the ground that they were not under his control and were outside the jurisdiction of the court.

Held, allowing an appeal from DUBUC, C.J., that the plaintiff had no right to an order striking out the defence of Thomas