

Anglin, J.] *BLAYBOROUGH v. BRANTFORD GAS CO.* [Feb. 20.

*Lord Campbell's Act—Adopted child—Death of—No right of action to adopted parents.*

Application under Rule 261 to strike out statement of claim in an action brought by the plaintiff on behalf of himself and his wife to recover damages for the death of their adopted son through an explosion of gas which was alleged to be due to the negligence of the company in laying their pipes. It was urged by the defendants that the statement of claim disclosed no cause of action under the statute as the child was an adopted one.

*Held*, that as the deceased was an adopted child and as the only right of action is by a statute which provides that the action shall lie for the benefit of the wife, husband, parent and child of the person who has been killed, there was no right of action to this plaintiff as claimed as he did not come within the statutory definition of parent which is defined to include father, mother, grandfather, grandmother, stepfather and stepmother. Even the mother of an illegitimate child is not within the terms of the statute. The law of England strictly speaking knows nothing of adoption and does not recognize any rights, claims or duties arising out of such a relation except as arising out of an express or implied contract.

*L. F. Heyd*, K.C., for plaintiff. *McInnes*, K.C., for defendants.

## Province of Nova Scotia.

### SUPREME COURT.

Full Court.]

[Dec. 23, 1908.

*HALIFAX GRAVING DOCK CO. v. WILLIAMS.*

*Shipping—Authority of master in foreign port to borrow moneys for repairs—Agreement to pay out of particular fund—General average.*

The Italian barque "Affezione" put into Halifax in distress and the master having no funds to enable him to effect repairs borrowed the sum of \$2,000 from defendant, giving him an agreement in writing that the same would be repaid before the barque was cleared and that in case the master should, while the barque was in port, receive any money from the owners "on