

she neglected to remove them; that it was in October that the claim was made resulting in interpleader proceedings, and that the claim . . . was disposed of in her favour . . . in February, 1909. Then, in October, the railway company put the goods into the hands of Suckling & Co., auctioneers, to sell, to pay the charges they had against the goods. The auctioneers received all the goods the shipping bill called for, and they sold on the 21st October what they did sell for less than enough to pay the charges of the railway company. Some of the goods, however, the auctioneers delivered, both before and after the sale, to the husband of the plaintiff, her agent. The auctioneers so delivered some goods, before the sale, "at the solicitation of an intimate friend," and, it is said, upon an undertaking that the goods would be accounted for; and, after they had sold what they thought would be sufficient to cover the defendants' claim, they delivered the remainder to the husband.

The action was brought on the 1st February, 1910; the statement of claim was delivered on the 21st March, 1910; and the statement of defence and counterclaim on the 8th April, 1910. This pleading sets up the arrival and notice, neglect of the plaintiff to remove the goods, the interpleader and termination thereof; further neglect by the plaintiff to remove; sale by the defendants on the 21st October, 1909, realising \$1,480.63—the charges against the goods being \$1,659.79; notification to the plaintiff of the time and place of sale and attendance thereat by the plaintiff or her agent without objection, and purchase by the plaintiff or her agent of some of the goods; account furnished in detail; and balance of \$177.16 still due. The defendants claimed a dismissal of the action and judgment for \$177.16 and interest.

No further pleading was filed except a formal joinder by the plaintiff on the 21st April, 1910.

The record was passed on the 8th February, 1911. On the 10th March, a notice of motion for a commission to examine witnesses in England was served by the defendants; and on the 13th March, Britton, J., upon application of the defendants in the trial Court, made an order for a commission to England, and ordered the case to be put at the foot of the list, but to be expedited. . . . In May, the defendants moved for particulars. The case came on again for trial, when Middleton, J., 16th September, 1911, directed it to stand off the list, but to be entered again when ready for trial.

On the 12th September, the solicitor for the defendants made an affidavit that he had but a short time before learned that the plaintiff or her agent had removed some of the goods, and