

HIGH COURT OF JUSTICE.

Falconbridge, C.J.K.B., Britton, J., Riddell, J.] [March 23.
 MENZIES v. FARNON.

Marriage—Action for declaration of invalidity—R.S.O. 1897, c. 162, s. 31—Motion for judgment in default of defence—Suspicion of collusion—Trial in open court—Oral evidence.

The plaintiff, a girl under 19 years of age, brought this action, by her next friend, against a man with whom she went through a ceremony of marriage when only 15, to obtain a declaration that a valid marriage was not effected or entered into. The action invoked the jurisdiction conferred by s. 31 of R.S.O. 1897, c. 162, as amended by 7 Edw. VII. c. 23, s. 8, and by the statement of claim the plaintiff alleged such facts as brought her claim within that enactment. The defendant did not appear or defend, and the plaintiff moved for judgment upon the statement of claim, supported by affidavits of herself, her mother and the defendant. The defendant stated that he procured a marriage license, without obtaining the consent of either of the plaintiff's parents; and it was shewn by a certificate that the return of the marriage contained the information that the plaintiff was then 18 years of age.

Held, that, in the circumstances, the motion for judgment was properly refused and the plaintiff left to proceed to trial in the ordinary way.

Per RIDDELL, J.:—No ceremony of marriage should be declared invalid, as a rule, unless the circumstances establishing the invalidity are proven in open court, coram populo, by viva voce evidence.

Judgment of TEETZEL, J., affirmed.

Harcourt Ferguson, for plaintiff. No one appeared for defendant.

Britton, J.—Trial.] [April 4.
 CLISDELL v. KINGSTON AND PEMBROKE R.W. Co.

Railway—Carriage of goods—Delivery to consignee—Seizure by railway company for unpaid tolls—"Seize"—Termination of carrier's lien—Demand—Conversion—Damages.

By s. 345 of the Dominion Railway Act, R.S.C. 1906, c. 37, a railway company may, instead of proceeding by action for the