

62, and in connection with the restricted jurisdiction thereby conferred. I quote from the latter statute:

"1. Section 31 of the Marriage Act as enacted by the Statute Law Amendment Act, 1907, is hereby amended by adding thereto the following sub-sections:—

(6) No declaration or adjudication that a valid marriage was not effected or entered into shall be made or pronounced under the authority of this section upon consent of parties, admissions, or in default of appearance or of pleading or otherwise than after a trial.

(7) At every such trial the evidence shall be taken *viva voce* in open Court, but nothing in this sub-section shall prevent the use of the depositions of witnesses residing out of Ontario or of witnesses examined *de bene esse*, where, according to practice of the Court, such depositions may be read in evidence."

I therefore decline to ratify the consent or agreement in question, or to make a declaration as asked.

I do not think in the circumstances I can make any order as to costs.

MASTER IN CHAMBERS.

MAY 25TH, 1912.

CANADIAN OIL CO. v. CLARKSON.

3 O. W. N. 1331.

Discovery — Examination of Defendant — Motion by Plaintiff for Order Requiring Defendant to Answer Questions Which He Declined on Advice of Counsel.

MASTER-IN-CHAMBERS held that where defendant counterclaimed, he was really a plaintiff asking damages from his vendors, and they were entitled to information such as was ordered in *Ont. Fruit Co. v. Hamilton, G. & B. Rv. Co.*, 21 O. W. R. 82 at 86.

Plaintiffs claimed \$1,130 for goods (chiefly oil) sold and delivered to defendant. The statement of defence alleged that the oil supplied was not in accordance with the plaintiffs' contract, and that defendant had sustained damages on this account to over \$3,000, of which \$165 was loss of profit on sales and \$2,000 for injury to his business.

In paragraph 7 of the statement of defence it was said that after defendant had sold large quantities of the oil so supplied to numerous customers he was obliged to take back a large portion of said oil and make a large reduction on the price of what was kept by the customers.