

fore, not brought within clause (e) of Rule 162, which permits service out of the jurisdiction in an action "founded on a breach within Ontario of a contract, wherever made, which is to be performed within Ontario."

For these reasons, I think the order of the local Judge must be sustained, and this appeal dismissed with costs.

ANGLIN, J.

FEBRUARY 20TH, 1909.

CHAMBERS.

BLAYBOROUGH v. BRANTFORD GAS CO.

*Fatal Accidents Act—Death of Adopted Child—Construction of Statute—Right of Action not Given—Summary Dismissal of Action—Rule 261.*

Motion by defendants, under Rule 261, to strike out the statement of claim in this action, on the ground that it disclosed no cause of action against them.

C. S. MacInnes, K.C., for defendants.

W. J. McCarthy, for plaintiff.

ANGLIN, J.:—The action is brought by the plaintiff on behalf of himself and his wife, Charlotte Blayborough, to recover damages for the death of their adopted son.

The defendants contend that the death of an adopted son, though caused by negligence, gives no cause of action to the persons whose adopted child was killed. Any right of action to recover compensation for the death of persons killed by negligence is purely statutory, and the statute (the Fatal Accidents Act, R. S. O. 1897 ch. 166, sec. 3) provides that the action shall be "for the benefit of the wife, husband, parent, and child of the person whose death has been so caused." "Parent" is defined (by sec. 1) to "include father, mother, grandfather, grandmother, stepfather, and step-mother." It does not include persons whose adopted child has been killed. Even the mother of an illegitimate child is not within its terms: *Gibson v. Midland R. W. Co.*, 2 O. R. 658; *Dickinson v. North Eastern R. W. Co.*, 2 H. & C. 735. "The law of England, strictly speaking, knows nothing