

cases cited there; and in this case the learned Chief Justice had no hesitation in finding the plaintiff's case to be well proven on the surrounding circumstances and particularly on the demeanour of the parties and their principal witnesses. The plaintiff proved a contract on his father's part to pay him wages. The suggestions and promises about giving the plaintiff the farm were ancillary to the main proposition, that the plaintiff was not to work for nothing.

Judgment for the plaintiff for \$1,033 and costs.

LUCZYCKI V. SPANISH RIVER PULP CO.—HOLMESTED, SENIOR REGISTRAR—JULY 19.

Alien Enemy — Dismissal of Action Brought by — Action Begun before War—Plaintiff Resident out of the Jurisdiction.]—Motion by the defendants to dismiss or stay the action. The motion was heard by the Senior Registrar, sitting for the Master in Chambers. The action was commenced before the war, and it was admitted that the plaintiff was an alien enemy resident out of the jurisdiction. The learned Registrar said that *Le Bret v. Papillon* (1804), 4 East 502, appeared to be directly in point. That action was launched before hostilities commenced, and it was held that after war was declared it could no longer be maintained. That case was referred to by the learned Chief Justice of the King's Bench in *Dumenko v. Swift Canadian Co. Limited* (1914), 32 O.L.R. 87, apparently with approval, and according to it the action must be dismissed. The case of *Viola v. Mackenzie Mann & Co.* (1915), Q.R. 24 K.B. 31, was the case of an alien resident in Canada, and had therefore no bearing on the present case. The order must go to dismiss the action with costs, but without prejudice to another action after the conclusion of peace between the British Empire and the Austro-Hungarian Empire. B. H. Ardagh, for the defendants. O. H. King, for the plaintiff.

MARTIN V. GRANTHAM—HOLMESTED, SENIOR REGISTRAR—JULY 19.

Summary Judgment—Rules 56, 57 — Affidavit Filed with Appearance—"Good Defence on the Merits"—Writ of Summons—Endorsement—Practice.]—Motion by the plaintiff for summary judgment under Rule 57, the plaintiff contending