

even assuming that it was a highway, the onus of proof cast upon the defendant by sec. 23 of the Motor Vehicles Act had been amply satisfied. The action should be dismissed with costs. F. W. Griffiths, for the plaintiff. W. M. German, K.C., for the defendant.

NEILL v. NEILL—KELLY, J.—JAN. 19.

Husband and Wife—Alimony—Cruelty—Adultery—Evidence—Quantum of Allowance.—An action for alimony, tried without a jury at a Toronto sittings. The defendant did not appear at the trial and was not represented by counsel. KELLY, J., in a written judgment, said that the history of the defendant's conduct towards the plaintiff, extending over a great part of their married life, shewed a condition of things of which the plaintiff had good reason to complain. Blows and other acts of physical violence, threats of shooting etc., and infidelity, figured in the indignities to which she was subjected. More than once settlements were made or attempted in which his past conduct was condoned in the hope of better conditions to come. After the defendant departed for overseas in 1914, the plaintiff also went to England, and there lived with him for a short time, but was forced to return to Canada. On his visits to Canada in 1917 and 1918, his physical maltreatment and abuse of his wife and his acts of infidelity were such as to afford ample ground in law for a judgment for alimony. There was also uncontradicted evidence of acts of infidelity on his part in England. On learning of these acts, the plaintiff refused to have further intercourse with him, and he then left Canada and has not returned. The evidence against him was conclusive. Since early in 1918 he has contributed nothing to the support of the plaintiff and their children. The evidence warranted an allowance of \$180 a month, and there should be judgment for payment of that sum each month by the defendant to the plaintiff, and also for payment of the plaintiff's costs of the action. J. Lorn McDougall, for the plaintiff.