

same Referee, as to damages only; and, after his report, judgment will be entered for the plaintiff for \$324.50 and costs as aforesaid, less the amount found by him. The costs of the reference will be determined by success in increasing or decreasing the \$50 suggested.

FIRST DIVISIONAL COURT.

JUNE 12TH, 1916

*WOOD v. WOOD.

Foreign Judgment—Decree of Divorce—Money Payable by Husband for Support of Wife and Child—Alimony—Claim for Arrears Based upon Judgment—Action in Ontario—Jurisdiction—Finality of Judgment—Judicature Act, sec. 34—Penal Action—Effect of Remarriage of Husband—Jurisdiction of New York Court to Grant Permanent Alimony Following Absolute Divorce.

Appeal by the defendant from the judgment of the County Court of the County of York in favour of the plaintiff in an action upon a foreign judgment.

The appeal was heard by GARROW, MACLAREN, MAGEE, and HODGINS, J.J.A.

F. J. Hughes, for the appellant.

A. Bicknell, for the plaintiff, respondent.

HODGINS, J.A., read the judgment of the Court. He said that the judgment sued upon was pronounced by the Supreme Court, State of New York, Erie County, on the 16th January, 1912, and dissolved the marriage between the appellant and respondent; it gave the respondent the custody of the child born of the marriage, and ordered the appellant to pay to the respondent \$50 per month for the support of herself and child, beginning on the 15th September, 1911. In this action, in the County Court, judgment for \$605 had been given for the plaintiff, being about 12 months' arrears up to the 15th January, 1916. The appellant married again in Ontario on the 11th December, 1915.

A claim for arrears of alimony past due upon a foreign judgment is enforceable in Ontario: *Robertson v. Robertson* (1908), 16 O.L.R. 170; *Swaizie v. Swaizie* (1899), 31 O.R. 324. See also *Phillips v. Batho* (1913), 29 Times L.R. 600.

The want of finality attributed to the English decree for alimony (see *Robins v. Robins*, [1907] 2 K.B. 13) is not apparent in