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ARCHAISM IN THE LAW OF ALIMONY.

A recent decision of the Appellate Division of the Supreme Court of Ontario has reminded us again that in some cases at least, it is neither just nor equitable that our Courts should be bound by precedents of English law, notwithstanding their age, or the customs and habits of life in vogue at the time the precedent was created. Social conditions change with centuries of time; and while no one with knowledge of the integrity of British Courts of Justice would venture to suggest that our Judges would be influenced in the execution of the duties of their high office either by public or private sentiment, the decisions of any Court must in every case be relative to the prevailing social conditions in so far as such decisions involve social or public problems.

Without discussing or questioning the justice of the decision in question, we can be free to look into the justice of the condition of the law under which our Courts are bound to follow ancient precedent, even though the conditions under which we live today may bear directly on the point at issue and be vastly different from those surrounding the case constituting the precedent.

In this case an action for alimony was brought by a wife against her husband. The claim was based on alleged cruelty and the Courts were called upon to decide as a question of law whether the facts proven at the trial constituted cruelty in the legal sense. The trial Judge held that they did. The Appellate Division held that they did not, basing their decision on a case tried in England in 1790. They quoted at length from the written judgment and applied this finding to a set of conditions that had arisen between husband and wife a century and a quarter