ch. 65; that the award was not made in the time provided by the agreement under which the arbitration was held; and that the award was null and void.

The submission (25th May, 1916), provided: (1) that the parties agree to leave all matters in difference between them, and the making of provision, if any, for the future maintenance of the wife, to the determination of three persons, etc.; (2) that the parties agree to abide by the determination of such questions by the award of the majority of the three persons; (3) that the parties agree that neither one shall resort to any proceedings at law unless default is made by either in carrying out any award made; (4) that the arbitrators are to make the award on or before the 5th June, 1916; and are to have all the powers of arbitrators under the Arbitration Act, and shall be governed by its provisions.

The award was dated the 20th June, 1916, and was, "that the said party of the first part" (defendant) "do pay to the said party of the second part" (plaintiff) "weekly the sum of $9 as maintenance."

The action was tried without a jury at Toronto.

Gideon Grant, for the plaintiff.

Daniel O'Connell, for the defendant.

MASTEN, J., in a written judgment, after setting out the facts, said that at the trial it was admitted by counsel for the defendant that the plaintiff, if not barred by the arbitration proceedings or by the covenant not to sue, was entitled to alimony.

The learned Judge found, upon the evidence, that there had been no default in payment of the $9 per week awarded by the arbitrators.

Upon the second point raised, the learned Judge said that there was no reason and no authority for holding that the question of liability for alimony and the amount of alimony should not be referred to arbitration.

As to the time within which the award should have been made, there was no provision in the submission for the enlargement by the arbitrators of the time. Clause (*f*) of the "Provisions to be Implied in Submissions" (schedule A., Arbitration Act) did not apply because there was by the submission manifested an intention contrary to the provisions of that clause, namely, that the award should be made before the 5th June, 1916. Even if the arbitrators had power to extend the time, there was no evidence that they had done so; and the time had not been extended by the Court under sec. 11 of the Act. There was, therefore, no award under the original written submission.