EXHIBIT 9

THE

ENGLISH REPORTS

VOLUME CLIII

EXCHEQUER DIVISION

IX

CONTAINING

MEESON AND WELSBY, 13 TO 16

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express and implied contracts. Where the right of action is grounded upon a specific distinct contract, requiring the assent of both parties, and one of them is incapable of assenting, in such a case there can be no binding contract; but in many cases the law does not require an actual agreement between the parties, but implies a contract from the circumstances; in fact, the law itself makes the contract for the parties. Thus, in actions for money had and received to the plaintiff's use, or money paid by him to the defendant's use, the action may lie against the defendant, even though he may have protested against such a contract. So, a tradesman who supplies a drunken man with necessaries may recover the price of them if the party keeps them when he becomes sober, although a count for goods bargained and sold would fail. In this case, the defendant is still liable for the consideration for his indorsement, although the indorsement itself can give the plaintiff no title.

PARKE, B. With respect to the authorities cited for the plaintiff, in which courts of equity have refused to relieve parties against contracts made by them when in a state of intoxication, those authorities may possibly have reference to a case of partial drunkenness. But where the party, when he enters into the contract, is in such a state of drunkenness as not to know what he is doing, and particularly when it appears that this was known to the other party, the contract is void altogether, and he cannot be compelled to perform it. A person who takes an obligation from another under such circumstances is guilty of actual fraud. The modern decisions have qualified the old doctrine, that a man shall not be allowed to allege his own lunacy or intoxication; and total drunkenness is now held to be a defence: *Yates* v. *Boen* (2 Stra. 1104), *Cole* v. *Robins* (Bull. N. P. 172), *Cooke* v. *Clayworth*. The **[627]** averment in this plea, that the defendant indorsed the bill, means merely that he wrote his name upon it; then the plea goes on to state, as matter of avoidance, that the act of so writing his name is not obligatory on him, because he was in fact non compos mentis when he did it. The plaintiff contends, that this defence might be given in evidence under a plea denying the indorsement; but that is not so; because we have already held, that indorsement means, in the first instance, the mere act of writing the name upon the bill.

ALDERSON, B. A party, even in a state of complete drunkenness, may be liable in cases where the contract is necessary for his preservation—as in the case of a supply of actual necessaries; so also, where he keeps the goods when he is sober. The ground of his liability there is, that an implied contract to pay for the goods arises from his conduct when he is sober; although I doubt much whether, if he repudiated the contract when sober, any action could be maintained upon it. Here the action is necessarily brought upon the contract itself; and when it is shewn that the contract by indorsement was made when the defendant was in such a state of drunkenness that he did not know what he was doing, and especially when it appears that the plaintiff knew it, I cannot doubt that the contract is void altogether. It is just the same as if the defendant had written his name upon the bill in his sleep, in a state of somnambulism.

Leave to the plaintiff to amend, on payment of costs, by withdrawing the demurrer and taking issue, otherwise

Judgment for the defendant.

[628] WILLIAMS *v.* JONES. Jan. 22, 1845.—An action of debt lies upon a judgment of a county court. And the declaration need not state that the defendant resided within the jurisdiction of the county court, or was liable to be summoned to that court for the debt; it is enough to state that the plaintiff levied his plaint in the county court for a cause of action arising within its jurisdiction.

[S. C. 2 D. & L. 680; 14 L. J. Ex. 145. Applied, *Godard* v. *Gray*, 1870, L. R. 6 Q. B. 148; *Schibsby* v. *Westenholtz*, ibid. 159; *Harris* v. *Taylor*, [1915] 2 K. B. 591. Dictum considered, *Nouvion* v. *Freeman*, 1889, 15 A. C. 8; *Emanuel* v. *Symon*, [1908] 1 K. B. 310. Referred to, *Rousillon* v. *Rousillon*, 1880, 14 Ch. D. 370; *Abouloff* v. *Oppenheimer*, 1882, 10 Q. B. D. 300.]

Debt on a judgment of the county court of Carnarvonshire. The declaration stated, that the plaintiff, on &c., at a county court of the sheriff of the county of Carnarvon, to wit, John Price, Esq., then sheriff of the said county, held at the

county hall in Carnarvon, in and for the said county, and within the jurisdiction of the said court, before D. E. D. and J. R., the free suitors of the said court, came, according to the custom of the said court, by Wm. Lloyd Roberts, his attorney, and then and there, according to the custom of the said court, levied his plaint against the defendant in a plea of debt, for 1l. 19s. 11d., for a certain cause of action arising to the plaintiff within the jurisdiction of the said court; and such proceedings were thereupon had, that afterwards, to wit, on &c., at the county court, to wit, the sixth county court of the said sheriff, held in and for the said county, and within the jurisdiction of the said court, before D. E. D. and J. R., the free suitors of the said court, the plaintiff, by the consideration and judgment of the said court, recovered against the defendant £1 for his said debt, and also 10l. 4s. 4d., which in and by the said court, and before the said last-mentioned suitors, were then adjudged to the plaintiff, with his assent, for his damages, &c.

Special demurrer, assigning for causes (inter alia), that in law no action lies upon the judgment of an inferior court not of record; and that it is not stated in the declaration that the defendant was a resident within the said county of Carnarvon, or within the jurisdiction of the said court, or that he had been duly summoned to the said Court. Joinder in demurrer.

Pearson, in support of the demurrer. First, an action is not maintainable upon the judgment of an inferior court not of record. An action will no doubt lie upon the **[629]** decree of a colonial court: *Henley* v. *Soper* (8 B. & C. 16; 2 Man. & Ry. 153); or upon an Irish judgment: *Harris* v. *Saunders* (4 B. & C. 411); but it never has been expressly decided that any action, still less that an action of debt, will lie upon the judgment of an inferior court not of record. In *Emerson* v. *Lashley* (2 H. Bl. 248), it was held that an action of assumpsit would not lie in a superior court, to recover costs ordered to be paid by a rule of an inferior court, in the course of a suit there. But even if assumpsit would be maintainable, it is submitted that debt is not. The law on this subject is stated in Com. Dig., "Debt," (A. 2), and 3 Bla. Comm. 160. The principle is, that in the case of a court of record, the judgment becomes a debt of record, on which a new action may be brought; but it is otherwise in the case of a court which has no records.

Secondly, the declaration in this case is defective, for not stating that the defendant was resident within the county of Carnarvon, or that he was liable to be summoned to the county court for this debt. In the case of an inferior court, the jurisdiction must clearly appear on the face of the record, and none will be intended: Com. Dig., "County," (C. 8), *Sollers* v. *Lawrence* (Willes, 416), *Ladbroke* v. *James* (id. 199). Thus in an action of debt upon the judgment of the London Court of Conscience, it was held that it must be proved (and if necessary to be proved, it must also be alleged), that the defendant, at the time of the judgment obtained, resided within the jurisdiction of the court: *Coore* v. *Keneday* (3 Esp. 280). [Pollock, C. B. In the case of *Welsh* v. *Troyte* (2 H. Bl. 29), it is said by Rooke, Serjt., arguendo that "it was a rule of law that no suit could be brought in a county court, unless both the defendants resided, and the subject matter arose, within its jurisdiction," for which he refers to the 2nd Inst. 229. In *Pritchard* v. *M'Gill* (2 M. & W. 380), however, **[630]** it was determined that it is not necessary, in order to give a county court jurisdiction, that the plaintiff should reside within the county.] In *Briscoe* v. *Stephens* (2 Bing. 213; 9 Moo. 413), the defendant pleaded to a declaration in indebitatus assumpsit, a verdict and judgment previously given in his favour, and still in force, in an inferior court at Ludlow, for the same cause of action, without shewing that the cause of action arose within the jurisdiction of that court. The plaintiff replied, that, at the time he levied his plaint in the inferior court, and from thence till judgment was obtained in that plaint, both himself and the plaintiff were residing out of the jurisdiction of that court, and that the cause of action arose out of its jurisdiction; and on special demurrer, the replication was held good. He referred also to *Read* v. *Pope* (1 C. M. & R. 302), *Rider* v. *Edwards* (3 Man. & Gr. 202; 3 Scott, N. R. 456), *Moravia* v. *Sloper* (Willes, 30), and *Carpenter* v. *Thornton* (3 B. & Ald. 52).

Welsby, contrà. First, an action of debt is maintainable on every contract in fact or in law; and a contract or obligation in law arises out of the judgment of a court of competent jurisdiction between the same parties, whether it be a superior or an inferior court, and whether a court of record or not of record; the only difference

being in the mode of proof of the judgment. There certainly is no direct affirmative authority that debt will lie on the judgment of a county court, but the proposition has been taken for granted in many cases, where other objections have been taken, but the objection that an action of debt could not be sustained has never been adverted to. Thus, in *Herbert* v. *Cook* (Willes, 37, n.), which was an action of debt on a judgment in a hundred court, the declaration stating that the plaintiff levied his plaint in the court below, for a cause of action arising within the jurisdiction of that court, and that such **[631]** proceedings were thereupon had, that the plaintiff recovered &c.; the defendant pleaded, that the cause of action arose at a place out of the jurisdiction of that court; and the Court, on demurrer, gave judgment for the defendant on the sufficiency of the plea. So, in *Read* v. *Pope*, the declaration, in debt on a judgment of a county court, was demurred to generally, and held bad, for not alleging that the cause of action arose within its jurisdiction; but the obvious objection that no action lay was never thought of. A similar observation applies to *Jones* v. *Jones* (5 M. & W. 523), where the ground of demurrer was that the declaration did not state the names of the suitors. *Emerson* v. *Lashley* is no authority to the contrary; there the action was in assumpsit, not in debt, and was brought to recover interlocutory costs given in the court below, and which was a court of record. In *Corrigal* v. *The London and Blackwall Railway Co.* (5 Man. & Gr. 241; 6 Scott, N. R. 241), where it was objected, amongst other things, that an action of debt would not lie upon an inquisition taken before the sheriff, under a railway act, the Court held the action maintainable.

Secondly, the declaration, which states that the cause of action arose within the jurisdiction of the county court, is sufficient in form. In the note (2) to *Pitt* v. *Knight* (1 Saund. 91 a.), where the cases are collected, it is said expressly, that "in pleading the judgments even of inferior courts, whether of record or not, it is now held not to be necessary to set out the cause of action, or that the defendant became indebted within the jurisdiction of the court; but it is sufficient to say, that at a certain court &c., held at &c., A. B. levied his plaint against C. D., in a certain plea of trespass on the case, or debt, &c., for a cause of action arising within the jurisdiction of the court, and thereupon such proceedings were had, that afterwards, &c., it was considered by the said Court, that the said A. B. should recover against the **[632]** said C. D.," &c. This was expressly decided in *Rowland* v. *Veale* (Cowp. 20), as to a plea of justification by process out of an inferior court; which is recognised by Buller, J., in *Belk* v. *Broadbent* (3 T. R. 185). *Coore* v. *Keneday* is quite distinguishable, because that was the case of a court established by statute (39 & 40 Geo. 3, c. civ.), which expressly limits its jurisdiction to cases where the defendant is liable to be summoned to that court. But the county court is an ancient common law court, of the extent of whose jurisdiction the superior courts will take notice. If the defendant be not in fact resident within the jurisdiction, or has not been served with the process, that may form a ground, as matter of practice, for setting aside the proceedings against him; but, in declaring upon the judgment, it is enough to state in general terms, that the cause of action arose within the jurisdiction, and any objection as to the non-residence of the party should come by way of defence from the other side: *Herbert* v. *Cook*. In *Briscoe* v. *Stephens*, the plea omitted to state that the cause of action did arise within the jurisdiction, and the replication also shewed that it did not.

Pearson, in reply. The general objection was not taken in *Herbert* v. *Cook*, or the other cases cited for the same purpose. [Alderson, B. The force of Mr. Welsby's argument is merely this, that those were actions in which other objections were made, while this, which lay on the very surface, might have been made, and was not.] *Pritchard* v. *M'Gill* applies only to the residence of the plaintiff, and not of the defendant.

POLLOCK, C. B. It appears to me that our judgment must be for the plaintiff. There are two questions for our consideration: first, whether an action of debt will lie upon **[633]** the judgment of an inferior court not of record; secondly, whether enough is stated on this declaration to shew that the court below had jurisdiction. As to the first point, Mr. Pearson appeared almost to concede that assumpsit would lie; and if so, debt will certainly lie also. And there are cases where actions of debt have been brought, as, for instance, *Coore* v. *Keneday*, and *Herbert* v. *Cook*, where no objection of this kind was taken, but in which it cannot be doubted that it would have been taken if it could have been supported. It is plain that, on principle, an

action of debt will lie upon the judgment of a competent court, whether of record or not of record; where a party has recovered a sum of money by the judgment of a court of competent jurisdiction, a debt is created, which may be enforced by an action of debt in the superior courts. Secondly, as to the sheriff's want of authority to try the case, on the ground of its not being averred that the defendant resided within the jurisdiction, or was summoned to appear, I think such averments were not necessary; if the facts were so, the allegations to that effect ought to come from the defendant by way of defence.

PARKE, B. The principle on which this action is founded is, that, where a court of competent jurisdiction has adjudicated a certain sum to be due from one person to another, a legal obligation arises to pay that sum, on which an action of debt to enforce the judgment may be maintained. It is in this way that the judgments of foreign and colonial courts are supported and enforced, and the same rule applies to inferior courts in this country, and applies equally whether they be courts of record or not. That the present objection has not been taken in similar cases heretofore may not be a very strong argument, and yet is entitled to considerable weight, when it is considered how obvious the objection is. These observa-**[634]**-tions apply to the nature of the remedy generally, and not to the mode of enforcing it. Then, secondly, the precedents shew, that it is not necessary to state more than that the cause of action arose within the jurisdiction of the county court; and that it need not be averred in the declaration that the defendant resided within the limits of the jurisdiction. Where applications are made to the superior courts to stay the proceedings, on the ground that the action ought to have been brought in the county court, it must be shewn that the defendant is amenable to the county court, and therefore it must be stated, on such an application, that he is resident within its jurisdiction. But I think that, in declaring upon the judgment, more need not be stated than that the cause of action arose within the jurisdiction of the court. With regard to the position of Rooke, Serjt., in *Welsh* v. *Troyte*, that no suit could be brought in a county court, unless the defendant resided within its jurisdiction, it is enough to say that that position is not borne out by the authority in the 2 Inst. 229, which is cited in support of it.

ALDERSON, B. I am of the same opinion. The principle, that an action of debt may be brought upon a judgment of an inferior court, applies equally to courts of record and not of record, and cannot be limited by the consideration, that, in the case of a judgment of a court not of record, you are thereby giving a more extensive remedy against the defendant, because that would apply to both descriptions of judgments. There is no foundation for a distinction between the cases. The true principle is, that where a court of competent jurisdiction adjudges a sum of money to be paid, an obligation to pay it is created thereby, and an action of debt may therefore be brought upon such judgment. This is the principle on which actions on foreign judgments are supported. As to the **[635]** second point, it is quite sufficient, according to the authorities, to allege, as has been done here, that the cause of action arose within the jurisdiction of the county court; the particulars of the extent of its jurisdiction need not be stated. Where it is a court which has been created by statute or charter, it may be otherwise; but the county court is an ancient jurisdiction, known to the common law. It is not necessary, therefore, to allege that the defendant was resident within its jurisdiction; the defendant may shew that by plea, if the fact were so. If an action were brought upon the judgment of a foreign court, the defendant would be bound to allege, that he did not reside within the jurisdiction of the court.

Judgment for the plaintiff.

WATSON AND OTHERS, Assignees of Fawcett, a Bankrupt *v.* BOYES AND ANOTHER. Jan. 23, 1845.—In trover, the issue on the plea of not guilty having been found for the defendant, and three other issues for the plaintiff, the defendant signed judgment on the issue found for him, and taxed his costs, but without carrying in the judgment roll; and having obtained the Master's allocatur, the amount was paid by the plaintiff. About a year afterwards, the plaintiff's attorney applied to the Master to tax the issues found for him, but the Master declined to do so, whereupon he obtained a judge's order requiring the defendant's attorney to enter

EXHIBIT 10

Cheshire and North's

Private International Law

Thirteenth edition

Sir Peter North, CBE, QC, MA, DCL, FBA

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1999

The Court of Justice held that, once a judgment which is enforceable under the Convention has been obtained in one Contracting State, the party who has obtained the judgment in his favour is prevented from bringing a new action before a court in another Contracting State for a judgment in the same terms. The Court came to this conclusion because it foresaw a number of problems that could arise if bringing a new action was allowed. First, it could involve the courts of another Contracting State going into the substance of the dispute when this is a matter for the courts of the Contracting State in which the original judgment was given.[13] Second, if a judgment is given in the second Contracting State which conflicts with that given in the first, it means that the court in the second has failed in its duty to recognise the first judgment.[14] Third, the *lis pendens* provisions under the Convention show the general desire to avoid having two sets of proceedings and two judgments in respect of the same cause of action.[15] Fourth, allowing a new action could result in a creditor possessing two orders for enforcement in respect of the same debt.

On the facts of the case, whilst there were two sets of proceedings there were not two inconsistent judgments, since the Dutch court recognised the Belgian judgment. The Court of Justice was therefore reacting more against potential problems than actual ones and, by forcing the parties to use the enforcement procedure under the Convention, imposed greater expense upon the parties than would have been the case if the plaintiff had been allowed to bring fresh proceedings in the Netherlands.

The effect of the decision in *De Wolf* is that a judgment given in a Contracting State which is enforceable under the Convention creates what in English law is regarded as an estoppel from the moment that it has been given.[16] The facts of *De Wolf* only concerned the situation where the estoppel principle prevents the claimant, having obtained a judgment in his favour, from obtaining another judgment against the same defendant in new proceedings involving the same cause of action and subject matter in a different Contracting State. However, this principle applies equally to prevent a claimant who has lost his action from obtaining a judgment against the same defendant in new proceedings in a different Contracting State.[17] Where, for the purposes of Article 21, the parties, cause of action and subject matter are the same, a foreign judgment will be recognised as binding between all those parties.[18]

13 See Art 29 and Art 34, para 3.
14 See Art 26, discussed supra, pp 488-489.
15 See Art 21, discussed supra, pp 251-256.
16 See supra, p 435 et seq and s 34 of the 1982 Act.
17 *Berkeley Administration Inc v McClelland* [1995] I L Pr 201, CA.
18 Ibid at 211 (per DILLON LJ). A foreign judgment which is recognised under Art 26 may also lead to an issue estoppel, provided that the normal requirements at common law for this (supra, pp 437-440) are satisfied: *Berkeley Administration Inc v McClelland* [1996] I L Pr 772 at 787(per Sir Richard SCOTT V-C), CA; see also *Boss Group Ltd v Boss France SA* [1997] 1 WLR 351 at 359; Briggs and Rees, pp 326-328.

factors (dealt with under Article 4). The inference that the parties intended English law to govern can seemingly only be challenged by a conflicting inference, ie by evidence showing a real intention that French law should govern. It is possible though to take a robust view that such an inference can be drawn from the factual connections with France.

This was the approach adopted by MANCE J in *Egon Oldendorff v Liberia Corpn.*[16] In this case the plaintiffs were German, the defendants Japanese, and the contract provided for arbitration in London. It was argued that the arbitration clause was a minor factor and that other factors pointed objectively to Japanese law. Not only were the defendants Japanese but also a Japanese shipbroker acted as intermediary between the parties, and the ships chartered were to be delivered and redelivered in Japan. MANCE J rejected this argument, saying that these matters were inadequate to lead him to conclude that the parties intended London arbitration under Japanese law,[17] and held that there was a good arguable case for the purposes of service out of the jurisdiction that English law governed. Thus, although it is possible to draw a conflicting inference from objective factors, it seems that the circumstances where it will be right to do so may be relatively rare. Once it had been decided that there was jurisdiction, the issue arose of whether English law did in fact govern. CLARKE J held that it did.[18] Having agreed a "neutral forum", the reasonable inference is that the parties intended that forum to apply a "neutral" law, namely English law. In the circumstances, the arbitration clause was a strong indication of the parties' intention to choose English law. CLARKE J thought that the approach towards arbitration clauses under Article 3 was little or any different from that at common law,[19] and at common law inferences were drawn from factual connections.

(e) **Consent to choice** There can be a dispute as to whether one of the parties has consented to the choice. Article 3(4) provides that issues in relation to the validity and existence of consent are determined in accordance with the special rules in the Convention relating to material validity (Article 8), formal validity (Article 9) and incapacity (Article 11). These provisions will be discussed later in this chapter. Article 3(4) has been criticised.[20] The effect of it appears to be that one party can choose the law to govern the issue of consent to choice. If there is no valid consent to the choice, presumably the applicable law must be determined under the rules on the applicable law in the absence of choice.[1]

(ii) The applicable law in the absence of choice

In a surprising number of cases the parties fail to choose the applicable law. This may be because they have contracted without first consulting lawyers, or they cannot agree on the applicable law. The determination of the applicable law in the absence of choice is dealt with under Article 4, which consists of three main

16 [1995] 2 Lloyd's Rep 64.
17 Ibid at 69.
18 *Egon Oldendorff v Liberia Corpn* [1996] 1 Lloyd's Rep 380 (CLARKE J).
19 The result would have been the same under the proper law of the contract in a three country case like this. See *Compania Naviera Micro SA v Shipley International Inc, The Parouth* [1982] 2 Lloyd's Rep 351, CA. Compare *Compagnie d'Armement Maritime SA v Cie Tunisienne de Navigation SA* [1971] AC 572, HL, treated as a two country case.
20 See Cavers (1975) 48 So Cal L Rev 603 at 609; Nadelmann (1976) 24 Am J Comp Law 1, 8–9; Kaye, pp 168–170; cf Morse, op cit, at 119.
1 Art 4. Cf the 1985 Hague Convention on the law applicable to contracts for the international sale of goods, Art 10(1) which spells this out.

EXHIBIT 11

C

***302 Grant v Easton**

Court of Appeal

M.R. Brett, Baggallay, and Bowen

1884 Dec. 12

Practice—Writ specially indorse—Leave to enter Final Judgment—Foreign Judgment—Rules of the Supreme Court, 1883, Order III., r. 6—Order XIV.

In an action upon a foreign judgment in which the writ of summons has been specially indorsed under Order XIV., the plaintiff may obtain an order empowering him to sign final judgment.

Hodsoll v. Baxter (E. B. & E. 884) followed.

THE plaintiff, who resided in Egypt, had obtained against the defendant a judgment dated the 2nd of July, 1883, in Her Britannic Majesty's Vice-Consular Court at Cairo. The defendant resided in England. The plaintiff then commenced in the High Court of Justice an action founded upon the judgment obtained in the Vice-Consular Court at Cairo, and an order was made at chambers by a master, empowering the plaintiff to enter judgment summarily. This order was affirmed on appeal by the judge sitting at chambers, and afterwards by the Queen's Bench Division. The defendant then appealed to this Court.

Rolland, for the defendant. It is contended that leave to enter final judgment summarily cannot be given where the plaintiff sues upon a foreign judgment. Judgment is obtained under Rules of the Supreme Court, 1883, Order XIV., when the writ of summons has been specially indorsed under Order III., rule 6; but that does not apply to a foreign judgment, which is not a debt or liquidated demand in money payable upon "a contract express, or implied." The remedy being summary, ought not to be extended. The Judges in the Queen's Bench Division felt themselves bound by the judgment of the Exchequer Chamber in Hodsoll v. Baxter1 ; but in that case the plaintiff sued upon a judgment of the Court of Queen's Bench, and there is a wide difference between the judgment of an English Court and the judgment of a foreign Court: an action ***303** upon an English judgment is based upon a debt of record, but a foreign judgment creates only a liability of inferior degree.

Petheram, Q.C., and *Henry*, for the plaintiff, were not called upon to argue.

BRETT, M.R.

The words used in Rules of the Supreme Court, 1883, Order III., rule 6, are the same as those contained in the Common Law Procedure Act, 1852 (15 & 16 Vict. c. 76), s. 25; the words of the rule are in fact a copy of the words of the statute; the rule and the statute, therefore, must have the same effect. Hodsoll v. Baxter2 which was cited during the argument, was decided upon the Common Law Procedure Act, 1852, s. 25, and therefore ought to be treated as a decision upon Order III., rule 6. As the Exchequer Chamber was a Court of co-ordinate jurisdiction with our own, the judgment is binding upon us, and we must hold that the order giving leave to sign final judgment under Order XIV.was right. But if no authority had existed, I should have come to the same conclusion. An action on a judgment has been treated as an action of debt. It has been suggested, however, that a difference exists between English and foreign judgments, but in the present case the question is, whether the defendant can shew any defence to the claim made against him. Upon principle what difference can there be between an English and a foreign judgment in this respect? An action upon a foreign judgment may be treated as an action in either debt or assumpsit: the liability of the defendant arises upon the implied contract to pay the amount of the foreign judgment.

BAGGALLAY and BOWEN, L.JJ.

, concurredAppeal dismissed. (J. E. H.)

1. E. B. & E. 884.

2. E. B. & E. 884.

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