

The rule as to interim alimony and disbursements I think, correctly stated by Meredith, J., in *Atwood v. Atwood*, 16 P. R. 50, at p. 51: "The marriage being admitted, and need and refusal of support being proved, the plaintiff" is "prima facie entitled to interim alimony and costs." It is true that the learned Judge disagreed in the result of that particular action with his brother Judge, but I do not think that any fault can be found with the rule laid down by him. "It was, no doubt, rightly said that the granting or refusing of such application rests largely in the sound discretion of the Court—that is, the sound judicial discretion:" S. C., p. 50.

The separation deed whereby the wife gives up all her rights for \$200, executed in the circumstances shewn in the material, cannot be a bar to the application any more than it was in *Lafrance v. Lafrance*, 18 P. R. 62, a decision by the Chancellor, who, it must be remembered, was the Judge in Chambers with whom Ferguson, J. (disagreeing with Meredith, J.), agreed in the *Atwood* case. In the *Atwood* case the existence of such a document is admitted, but its legal effect is questioned—no affidavits shewing fraud or duress being before the Chancellor on the appeal. That case, therefore, is distinguishable from the case under consideration.

The adultery is denied, and that cannot be tried upon motion.

As to the North Dakota divorce, it would appear that, the parties residing in Manitoba, the defendant remained there until after his sale in March, 1905, and came to Bruce county, Ontario, in the summer of 1905. He then went to Dickinson, North Dakota, and remained there for about a month, at which time he gave instructions to his attorney for divorce proceedings. He had, when living in Manitoba, been in Dickinson in 1904 for some months, and, as he says, he had gone into the horse business. He seems to have made in April, 1905, a declaration of intention to become a citizen of the United States. The separation took place in November, 1904.

In January, 1906, he seems to have obtained a decree for a divorce from the District Court of that State, without personal service upon his wife and in her absence. He was