

a judgment for alimony, held, following *Rae v. Rae*, 31 O. R. 321, that such offer, under the circumstances, was not sufficient to defeat the Plaintiff's claim. *E. v. E.*, 15 M.R. 352

*"Decree for the Restitution of Conjugal Rights."*

By the English Law as of the 15th day of July, 1870, nothing but cruelty or adultery on the part of a wife after marriage would be a bar to an order for such restitution, or entitle the husband to a judicial separation.

*Scott v. Scott* (1864), 4 S. & T. 113. *Russell v. Russell* (1897), A.C. 395, followed in *A. v. A.* 15 M.R. 483.

Adultery a bar to the action, *Leib v. Leib*, 7 W.L.R. 824 (Sask.).

Unchastity before marriage and concealment of it from the husband until the birth of a child is not sufficient to make the marriage null and void or to disentitle the wife to alimony. *A. v. A.*, 15 M. R. 483, following *Aldrich v. Aldrich* (1892), 21 O. R. 447.

Resumption of co-habitation is a necessary ingredient of condonation by the husband of any matrimonial offence committed by the wife such as would prevent him from relying upon it as a defence to an alimony suit. *A. v. A.* supra, following *Keats v. Keats* (1859), 1 S. & T. 334. See the case of *A. v. A.* for the history of this section and the English law and practice.

As to what the decided cases define as legal cruelty, see *Russell v. Russell* (1897), A.C. 395, followed, and *Lovell v. Lovell*, 13 O. L. R. 569, distinguished, in *Willey v. Willey* (1908), 18 M. R. 298, 9 W. L. R. 166.

A deed of separation unless void for fraud, duress, want of understanding on the part of the wife, lack of independent advice, misrepresentation or undue influence, if followed by an immediate separation, requires no other consideration to support it and is a complete defence to a subsequent action by the wife for alimony.

*Ditch v. Ditch* (1911), 21 M.R. 507, and cases there cited *Pherill v. Pherill*, 6 O. L. R. 642.

After a lapse of time the deed should not be impeached unless upon clear proof of one or other ground of avoidance if the deed has been acted upon by both parties, *ibid.* following *Sibberring v. Balcarras* (1850), 3 De.G. (and) Sm., 735, and *Allard v. Skinner* (1887), 36 Ch. D. 145.