

evidence, changed the order and gave the custody of the child to a Roman Catholic institution.

*Held*, on appeal, affirming the decision of MARTIN, J., that the magistrate had power to make the second order.

*Sir C. H. Tupper*, K.C., for the appeal. *L. G. McPhillips*, K.C., contra.

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SUPREME COURT.

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(Clement, J.)

ADAMS v. ADAMS.

[Aug. 9.]

*Divorce—Domicil.*

Petitioner in 1895, when aged about 19, came from Ontario to British Columbia, where he spent some three or four years in different places. In 1899 he married and at once removed to the North-West Territories. In 1907, satisfied of his wife's infidelity, he "made her go away," and after some financial arrangements between the couple, she left for New York, since which time no communication has passed between them. In the autumn of 1908 he came to Vancouver, B.C., and took a position in a mercantile house, and in January, 1909, filed a petition for divorce, alleging that he and the respondent were domiciled in British Columbia.

*Held*, that he had not acquired a domicile in British Columbia to entitle him to a divorce.

The court will not decree a divorce until it is perfectly satisfied that at date of petition the domicile of the married pair was in this province. Mere residence does not constitute domicile, but there is needed in addition a "settled purpose of taking up a fixed and settled abode." *Wilson v. Wilson* (1872) 41 L.J.P. 76; *Bell v. Kennedy* (1868) L.R. 1 Sc. App. 310; *Udny v. Udny* (1869, L.R. 1 Sc. App. 449 followed.

*Quære*, whether domicile of wife invariably and necessarily follows that of husband.

*Tiffin*, for petitioner. No one for respondent.

Hunter, C.J.]

[Sept. 10.]

FRASER v. VICTORIA COUNTRY CLUB.

*Criminal law—Betting on race tracks—Crim. Code ss. 227, 235—Lawful bookmaking.*

The plaintiff, a director and shareholder in defendant company, brought action for an injunction restraining the defendants