controverted points, the law which obtains in the State of New York.

In the first place, the expert witnesses agree that by the law of New York an agreement between a man and woman presently to become husband and wife constitutes a valid marriage without any ceremony whatever, and that such consent need not be given in presence of any witness, nor need it be evidenced in any particular form. It is also common ground that marriage will be presumed from cohabitation, reputation, acknowledgment of the parties, reception into the family, and other circumstances of a like character—the usual concomitants of the marriage state: Hynes v. McDermott, 91 N. Y. 451; Rose v. Clark, 8 Paige (Ch.) 574; Caujolle v. Ferrie, 23 N. Y. 90; Jackson v. Claw, 18 Johns. 346; Fenton v. Reid, 4 Johns. 51.

There was no dissent by the expert witnesses from the proposition that, where the connection began under a contract of marriage supposed to be legal, though in fact void in consequence of a disability of one of the parties, a marriage after the removal of the disability may be presumed from acts of the parties evidencing recognition of each other as husband and wife, and from continued matrimonial cohabitation and general reputation, and this though there had been no marked change in the character of the relations between them, and the invalidity of the marriage had remained unknown to them while both were living, the inference being of consent at the first moment when you find the parties able to enter into the contract: Hynes v. McDermott, 91 N.Y. 451; Fenton v. Reid, 4 Johns. 51. This doctrine is not unfamiliar, having been enunciated in DeThoren v. Attorney-General, 1 App. Cas. 686, as prevailing in . . . Scotland, where marriage by consent, followed by cohabitation, is valid. Upon its applicability to the present case the experts do not agree.

By the statute 1 Jac. I. ch. 2, it was enacted that a person marrying a second time whose husband or wife had been continually absent for 7 years immediately preceding the second marriage, and not known by such person to be living within that time, should not be guilty of bigamy. In 1788 a similar Act of the Legislature of the State of New York reduced the requisite period of absence to 5 years. This provision is still in force. The experts agree that it does not render a second marriage valid, if the absent spouse be in fact alive. . . .

[Reference to Price v. Price, 124 N. Y. 589, 597.]

"If any person whose husband or wife shall have absented himself or herself, for a space of 5 successive years, without