

respondent, the son of the late Colonel Udny, "though illegitimate at his birth, was legitimated by the subsequent marriage of his parents." This depended upon the domicile of Colonel Udny at the time of such birth and marriage.

Colonel Udny's domicile of origin was Scotch, he settled in England and lived for thirty-two years in London. Having fallen into pecuniary difficulties, he gave up his London house, sold everything in it, and crossed over to France and resided in Boulogne for nine years. He then returned to London where the respondent was born, and where after the birth his parents were married.

What was Colonel Udny's domicile at the time of the birth and marriage? If Scotch, the effect of the marriage would be to legitimate the respondent. The House of Lords came to the conclusion that whatever might have been the effect of Colonel Udny's long and habitual residence in England upon the Scotch domicile of origin, which they considered to be a question of great nicety, that at any rate when he sold his house, and broke up his English establishment with the intention not to return to England there was an abandonment, *animo et facto* of the English domicile which effectually destroyed it, and that thereupon his domicile of origin revived, and was in force at the time of the birth and marriage; and as the law of that domicile permitted legitimation per subsequens matrimonium, the respondent was legitimate.

The Lord Chancellor (Lord Hatherley) referring to *Moorhouse v. Lord* (supra) said:—

"I think some of the expression used in former cases of the intent '*exuere patriam*,' or *become a Frenchman* instead of an Englishman, go beyond the question of domicile. The question of naturalization and of allegiance is distinct from that of domicile. A man may continue to be an Englishman and yet his contracts and the succession to his estate may have to be determined by the law of the country in which he has chosen to settle himself. He cannot, at present at least, put off and resume at will obligations of obedience to the government of the country