

HIGH COURT OF JUSTICE.

Robertson, J.
Trials of actions. }

[Jan. 10.]

HOEFNER v. CANADIAN ORDER OF CHOSEN FRIENDS.

Insurance—Friendly society—Relief certificate—Non-compliance with rules as to initiation.

Action on relief fund certificate for \$1,000 issued by defendants, who were incorporated under R S.O. 1877, c. 167, on one Hoefner, deceased, in favour of the plaintiff. The deceased was balloted for and elected at a meeting of a subordinate council, but died before being duly initiated according to the rules of the Order before a duly constituted court of the council, though an irregular initiation had taken place before the Chief Councillor and the Prelate of the Order, and the subordinate council falsely recorded in their minutes that the deceased had been initiated at a certain meeting.

Held, that the defendants were not bound by the irregular acts of the subordinate council which could not, nor could its officers, waive the requirements of the company's laws in respect to the relief fund, and as the deceased had not been properly initiated the plaintiff could not recover.

Teetsel, Q.C., and *McClement*, for the plaintiff. *Aylesworth*, Q.C., and *Lee*, for the defendants.

Boyd, C.]

LAFRANCE v. LAFRANCE.

[Jan. 11.]

Alimony—Interim allowance—Consent judgment in former action—Payment—Separation deed—Change of circumstances.

In 1897 a wife brought an action against her husband for alimony, and to set aside a judgment pronounced by consent in a former action for alimony begun in 1884, under which the wife had received \$200. The defendant pleaded the judgment as a bar, and also adultery by the wife, and a deed of separation. The plaintiff disputed the deed of separation, and impeached the judgment as obtained by fraud and without her knowledge or consent; the payment of \$200 she attributed to a release of dower given by her. She also alleged expulsion and desertion by her husband, and that he had been living in adultery after the judgment.

Held, that under these circumstances, the plaintiff was entitled to an order for interim alimony.

Atwood v. Atwood, 15 P.R. 425, distinguished. *Henderson v. Henderson*, 19 Gr. 464, followed. *Morrall v. Morrall*, 6 P.D. 98, and *Williams v. Baile*, L.R. 2 Eq. 731, also referred to.

W. B. Taylor, for plaintiff. *H. W. Cnurch*, for defendant.

Armour, C.J., Street, J.] ARMSTRONG v. ARMSTRONG.

[Jan. 31.]

Security for costs—Plaintiff out of jurisdiction—Property within jurisdiction—Administration order—Consent to charge share with costs—Place of reference.

A plaintiff residing out of the jurisdiction, but owning a substantial amount of property within it, should not be ordered to give security for costs.