

MIDDLETON, J.

JANUARY 23RD, 1917.

## \*CROMARTY v. CROMARTY.

*Husband and Wife—Alimony—Validity of Marriage—Validity of Previous Foreign Divorce of Wife—Jurisdiction of Foreign Court—Domicile of Parties at Time of Institution of Proceedings for Divorce—Change of Domicile—Animus Manendi—Fraud upon Foreign Court—Status of Husband to Attack Divorce—Collusion—Quantum of Alimony—Reference—Costs.*

An action for alimony. The defendant admitted the plaintiff's right to alimony if there was a valid marriage.

The action was tried without a jury at Toronto.

J. W. Bain, K.C., P. White, K.C., and M. L. Gordon, for the plaintiff.

H. H. Dewart, K.C., and R. T. Harding, for the defendant.

MIDDLETON, J., in a written judgment, said that the plaintiff was first married to one Lampkin, from whom she obtained a divorce by the decree of the Superior Court of Cook County, Illinois, on the 2nd May, 1896. Five days later, she married the defendant.

The validity of the marriage depended on the validity of the Cook County divorce; and the validity of the divorce depended upon the domicile of the parties at the time of the institution of the proceedings in Illinois leading up to the divorce. "The Court of the bona fide existing domicile has jurisdiction over persons originally domiciled in another country to undo a marriage solemnised in that other country; and such a divorce will be recognised by the English Courts even if granted for a cause which would not have been sufficient to obtain a divorce in England." *Bates v. Bates*, [1906] P. 209 (C.A.); *Harvey v. Farnie* (1882), 8 App. Cas. 43; *Le Mesurier v. Le Mesurier*, [1895] A.C. 517.

Lampkin and the plaintiff were both originally domiciled in Ontario, and were married in Ontario on the 5th July, 1886. They made their home in Ontario until September, 1892, when Lampkin went to Chicago, Cook County, Illinois; his wife followed him there in June, 1893. Divorce proceedings were instituted by her in Chicago in March, 1896, and the bill was

\*This case and all others so marked to be reported in the Ontario Law Reports.