

plaintiff had the fortune stated in the declaration, amounting to about \$224,000.

3rd. That shortly after the marriage the defendant obtained possession of the plaintiff's fortune as agent and trustee, and administered the same until 25th of September, 1876.

4th. That the defendant returned to the plaintiff on the date last mentioned only a small portion of her valuable securities, and has never rendered an account of his gestion of her fortune.

5th. That in the month of December, 1880, the plaintiff was duly divorced from the defendant, by decree of the Supreme Court of New York on the ground of defendant's adultery.

6th. That the effect of the said divorce is as complete and extensive as a divorce granted by the Parliament of the Dominion of Canada.

*W. H. Kerr, Q.C.*, for the defendant, contended: 1st. That the decree of divorce pronounced by the Supreme Court of the State of New York is null and void and of no effect, inasmuch as at that time neither of the parties to the action was domiciled in the State of New York.

2nd. That no consent or appearance by the present defendant could give jurisdiction to that Court to pronounce such decree.

3rd. That defendant being domiciled in the Province of Quebec, no Court had any jurisdiction to dissolve the marriage.

4th. That plaintiff not being authorized either by him or by this Court to institute this action, but bringing the same as if she were a spinster, the action could not be maintained in the event of the divorce being held null and void, for want of power to *ester en justice*.

**PER CURIAM.** There is no question as to the facts of this case. The parties were domiciled in New York when they married and did not change their domicile for some time. The chief question is one of law, whether the decree of the Supreme Court of New York was operative to dissolve the marriage at a time when the domicile of the husband was in Lower Canada. Bishop, Marriage and Divorce. Vol. 2 (728). When the wife is plaintiff in a divorce suit, it is the burden of her allegation, that she is entitled, through the misconduct of her husband, to a separate domicile. If she fails to prove this, she fails in her cause; if she proves this, she establishes her cause. S. 128 (730). And the doctrine that for purposes of divorce, the wife may have a domicile separate from her husband, is well established in the American tribunals. §. 156 (731). \* \* \* Having therefore arrived at this conclusion, we shall have no difficulty in settling, upon principle, that, as a question free from any statutory incumbrance, the Courts of the actual *bona fide* domicile of either may entertain the jurisdiction. If it were not so, then both States, where the domicile of the one was in the one State and that of the other was in the other State, would be deprived of the right to determine the status of their own subjects."

This appears to be a most reasonable doctrine and should be followed by the Court in this case. The husband having committed adultery, the wife had a right to complain of it before the Court of her matrimonial domicile which was then her actual domicile, and the husband acquiesced in the proceeding by his appearance therein and submission to the jurisdiction. It is unnecessary to discuss the ancillary questions started by the defendant. His plea is overruled and the order for the account made.

Judgment for plaintiff.

*E. Lafleur* for plaintiff.

*H. L. Snowden* for defendant.

*W. H. Kerr, Q. C.*, counsel.

#### GENERAL NOTES.

**DEATH OF A NOTED LAWYER.**—The cable brings news of the death of Edwin John James, formerly one of Her Majesty's Counsel, and M.P. for Marylebone. The *N. Y. Herald* says:—His history is singular. Born in 1812, he was educated at Chichester and became a member of the Bar in 1835. He was soon leader of the Home circuit and enjoyed an extensive practice. Sharp as a needle to detect a flaw in an indictment, always ready to reply and inimitable at ingratiating himself with a hostile jury, he rose to eminence at the criminal bar. In bankruptcy matters he was equally keen, but that branch of the profession he relinquished early to engage in more lucrative pursuits. Before election committees he was the counsel most dreaded by newly elected members of Parliament who had been guilty of corruption. As an instance of his ability to deal with these worthies it may be mentioned that in 1857, he was concerned in thirty-one election petitions, and he caused twenty-seven members to be unseated for bribery and other dishonest practices. This was a good percentage of successes, it must be confessed. He attained eminence, was made Queen's Counsel, and in 1854 was chosen by Lord Palmerston to fill the honorable post of First Recorder of Brighton. He was elected to Parliament as a radical in 1859, and made his mark as a dashing speaker and a shrewd tactician. In the following year he went to Italy and spent a few weeks in Garibaldi's camp. His letters to the daily papers gave graphic accounts of the guerilla warfare then being waged by the hero of Caprera. On his return misfortune overwhelmed him. He was accused of professional misconduct, and the charges were laid before the Benchers of the Inner Temple. It is not necessary here to go into particulars of the offences of which he was accused. Suffice it to say that the Benchers considered them fully proved, and Mr. Edwin James was disbarred. He came to New York and was admitted to the Bar of this city and began to practice. The old charges against him were revived, and it was sought to expel him from the Bar here. He defended himself very courageously and explained away many of the allegations against him, and to such purpose that resolutions declaring belief in his innocence were passed by a large meeting of prominent lawyers of the city. For some years he remained in New York and then he returned to England and petitioned to be restored to the Bar. All his efforts failed, however. Then, although debarred from practising in the courts, he made a good income by giving advice to prospective litigants. He was a *bon vivant* and a popular man. Illness attacked him and he had little or no balance at his banker's. Some of his old professional friends came to the rescue. A subscription was started a few weeks ago and just as it had begun to assume fair proportions Mr. James died. Thus ended the career of a man who twenty years ago stood at the top of his profession, was earning \$50,000 a year—and living up to every dollar of it—and who had every prospect of an honorable post on the judicial Bench."