

84

THE
LAW REPORTS.

Probate Division.

IN THE COURTS OF PROBATE AND DIVORCE

REPORTED BY

RICHARD SEARLE, BARRISTER-AT-LAW, AND
JOHN G. MIDDLETON, LL.D., ADVOCATE;

IN THE ADMIRALTY AND ECCLESIASTICAL COURTS

BY

GAINSFORD BRUCE, BARRISTER-AT-LAW;

IN THE PRIVY COUNCIL

BY

HERBERT COWELL, BARRISTER-AT-LAW;

AND

IN THE COURT OF APPEAL

BY

CHARLES MARETT, WILLIAM MILLS, AND
HENRY HOLROYD, BARRISTERS-AT-LAW.

EDITED BY

JAMES REDFOORD BULWER, Q.C.

V O L . I I .

FROM MICHAELMAS SITTINGS, 1876, TO TRINITY SITTINGS, 1877,

BOTH INCLUSIVE.

XL VICTORIA.

L O N D O N :

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1877.

JUDGES
OF
THE PROBATE, DIVORCE, AND ADMIRALTY DIVISION
OF
THE HIGH COURT OF JUSTICE.

XL VICTORIA.

The Right Hon. Sir JAMES HANNEN, Knt., Presi-
dent.

The Right Hon. Sir ROBERT PHILLIMORE, Knt.,
D.C.L.

J 142 31

the petitioner has to maintain the children, this is a reasonable amount for the respondent to pay towards their support and maintenance, and I direct that this sum be paid to the petitioner until further order.

I have disposed of the several matters to which my attention has been called. If further difficulties in carrying out my directions should arise, either party may apply to me in chambers.

Solicitor for petitioner: *J. B. Batten.*

Solicitors for respondent: *Tattershall & Tattershall.*

1877

MAUDSLAY
v.
MAUDSLAY.

FENDALL, OTHERWISE GOLDSMID v. GOLDSMID.

July 24.

Suit for Nullity—Undue Publication of Banns—Petitioner previously Divorced—Proper Name.

The petitioner having obtained a decree dissolving her marriage with the respondent, subsequently re-married him. This second marriage was celebrated after publication of banns, in which the petitioner was described by her name of marriage, she having in the interval between the decree dissolving her first marriage and the celebration of the second usually passed by her maiden name. On an application to annul such marriage by reason of an undue publication of banns:—

Held, that a name acquired by marriage can only be superseded by a reputed name in cases where the name had been so far acquired by repute as to obliterate the name acquired by marriage.

ALICE HENRIETTA ANNA GOLDSMID, on the 27th of September, 1875, petitioned the Court as follows:—

1. On the 6th of October, 1866, your petitioner (then A. H. A. Fendall, spinster) was married to William Holland Goldsmid in the British Consul's Office at Calais, in France. 2. On the 31st of March, 1869 (this date was erroneous, the decree nisi having been made on the 24th of March, 1870, and the decree absolute on the 15th of November, 1870), the said marriage was dissolved by a decree of this Court, on the ground of the adultery, cruelty, and desertion of the said W. H. Goldsmid. 3. On the 29th of April, 1872, a ceremony of marriage was celebrated between your petitioner and the said W. H. Goldsmid, at the parish church of St. Botolph, Aldgate, Middlesex. 4. That the banns for the said pretended marriage, celebrated as aforesaid on the 29th of April,

1877

FENDALL
v.
GOLDSMID.

1872, were published in the name of Alice Henrietta Anna Goldsmid, whereas your petitioner had ever since the dissolution of her first marriage with the said W. H. Goldsmid been known by the name of Alice Henrietta Anna Fendall, and your petitioner and the said W. H. Goldsmid were falsely described as widow and widower, and your petitioner and the said W. H. Goldsmid knowingly and wilfully intermarried without due publication of banns.

The petitioner prayed for a decree that the ceremony of marriage celebrated on the 29th of April, 1872, between the petitioner and respondent, is null and void, and that she is free from all bond of marriage with the said W. H. Goldsmid, and further for a decree that the respondent shall pay the costs of and incident to the petition.

On the 12th of November, 1875, this petition, with the citation, was served upon the respondent at Cape Town, Cape of Good Hope, but he entered no appearance thereto. At the hearing it appeared that the date of the decree dissolving the previous marriage had been erroneously stated in the petition, whereupon

Searle, for the petitioner, asked leave to amend it.

‘ THE JUDGE ORDINARY. ’ I have no objection to the amendment being made, but the petition must be re-served upon the respondent. It will be for counsel to consider how far it will be advisable to do so, when I state that I am of opinion that marriage confers a name upon a woman, which becomes her actual name, and that she can only obtain another by reputation. The circumstances must be very exceptional to render a marriage celebrated in the actual names of the parties invalid. It could only be where the woman has so far obtained another name by repute as to obliterate the original name.

Searle thereupon asked that the petition should be at once dismissed, which was done.

Solicitor: *E. Johnson*.

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