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Conflict of Laws -- Full Faith and Credit -- Recognition of Foreign Divorce Decrees -- Domicile

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of implied agreement) justifies the roundabout means taken to reach that end. It is at least questionable whether unnecessary complications and needless refinements in the law are justifiable.

Unfortunately the Court has failed to explain why they saw fit to award damages in the present case at all. There is no indication in the opinion, except for the fact that a conditional vendor was held liable in damages for taking the property sold under a conditional sale, as to whether or not the Court adopted either of the theories open to it. An excellent opportunity to clarify the North Carolina law of conditional sales has been lost. What would have been a valuable precedent is just another obscure opinion, deriving whatever value it may have from the fact that possibly it is a straw in the wind indicating that the Court is somewhat dissatisfied with the North Carolina law of conditional sales as it relates to the right to possession before default.

FRED R. EDNEY.

Conflict of Laws—Full Faith and Credit—Recognition of Foreign Divorce Decrees—Domicile

It is of interest to note that a North Carolina case\(^1\) has recently furnished the occasion for a reversal by the United States Supreme Court\(^2\) of its decision in Haddock v. Haddock.\(^3\) The North Carolina case involved the prosecution for bigamous cohabitation of two citizens of this state who had remarried after having obtained divorces in Nevada upon compliance with the six weeks residence requirement of that state. In neither divorce action was the defendant personally served in Nevada nor did the defendant enter an appearance. Haddock v. Haddock involved a divorce granted by a state which was the domicile of one spouse but not the last matrimonial domicile of the parties. It was held that in the absence of personal service or appearance by the defendant in the action, such divorces, valid in the state where granted, need not be given full faith and credit by other states although such states might recognize them as a matter of comity. In accordance with this rule, North Carolina refused to recognize the divorces in the instant case.

In Bell v. Bell\(^4\) it was decided that a state where neither party was domiciled could not grant a divorce even though both parties personally appeared. The North Carolina court suggested as another possible ground for its decision that if it were found that the plaintiffs had

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\(^3\) 201 U. S. 562, 26 S. Ct. 525, 10 L. ed. 867 (1906).

\(^4\) 181 U. S. 175, 21 S. Ct. 551, 45 L. ed. 804 (1901).
failed to establish bona fide domiciles in Nevada the divorces were void under the rule in the *Bell* case. The majority of the Supreme Court, however, avoided passing upon this question by applying the doctrine "that if one of the grounds for conviction is invalid under the Federal Constitution the judgment cannot be sustained." Since this view required the court to treat the case as though bona fide domiciles had been established, the opportunity was presented directly to overrule the *Haddock* case.

The ground for reversal was that the *Haddock* decision created an unwarranted exception in divorce cases to the Full Faith and Credit Clause and also to the Act of Congress implementing that clause. In *Atherton v. Atherton* it had been decided that where the decree-granting state was also the last matrimonial domicile of the parties divorces obtained therein on substituted service must be recognized by other states. The court in the present case considered the distinction between the after acquired domicile of the *Haddock* case and the last matrimonial domicile of the *Atherton* case to be "immaterial, so far as the full faith and credit clause and the supporting legislation are concerned." Therefore, it was decided that divorces granted at the domicile of one spouse must be given full faith and credit by other states so long as the requirements of procedural due process are complied with.

The two dissenting justices took the position that the plaintiffs had never acquired bona fide domiciles in Nevada and that the divorces were not therefore entitled to full faith and credit by North Carolina. This argument flows from the idea that the sovereign power of the state to determine the marital status of its citizens should not be infringed upon by other states simply because of a residence therein for a few weeks. Furthermore, the upholding of such divorces would tend to substitute the policy of the least strict state for that of all the rest. Since the majority of the court expressly refused to decide this question, a strong possibility of attack upon the "Reno Divorce" is thus left open in spite of the rejection of the *Haddock v. Haddock* doctrine. The cause had been remanded for new trial by the North Carolina court. Consequently it may yet become necessary in this same litigation for the United States Supreme Court to decide "as to the power of North Carolina to refuse full faith and credit to Nevada divorce decrees be-

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6 *U. S. Const. Art. IV, §1.*
8 *181 U. S. 155, 21 S. Ct. 544, 45 L. ed. 794 (1901).*
10 *State v. Williams, 222 N. C. 609, 24 S. E. (2d) 256 (1943).*
cause, contrary to the findings of the Nevada court, North Carolina finds that no bona fide domicile was acquired in Nevada."  

ARTHUR C. JONES, JR.

Federal Venue—Plaintiff Denied Option to Sue in His Home District Where Federal Jurisdiction not Founded Solely on Diversity of Citizenship

The general federal venue statute reads: "... no civil suit shall be brought in any district court against any person by any original process or proceeding in any other district than that whereof he is an inhabitant; but where the jurisdiction is founded only on the fact that the action is between citizens of different States, suit shall be brought only in the district of the residence of either the plaintiff or the defendant." A recent case has reiterated the well established judicial emphasis placed on the word "only" in the statute. Suit was instituted in federal court in the district of the residence of the plaintiffs and both diversity of citizenship and the presence of a federal question were set up as grounds for federal jurisdiction. Held: Since the federal jurisdiction was not founded solely on diversity of citizenship each defendant was entitled to be sued in the district of which he was an inhabitant. On apt motion by the defendants the suit was dismissed.

Federal venue is not the same thing as federal jurisdiction. Venue has to do with the geographical situs of the suit,—with which particular federal court shall hear the case; jurisdiction concerns the substantive power of any federal court to take cognizance of the suit. Even if jurisdiction is established the venue must still be properly laid.

In that event the Court will face these facts: first, that when the courts of divorce mill states find that divorce seeking transients are residents having no fixed intention to depart after the divorce is obtained, these courts are guilty of falsehood; second, the motive for the falsehood is to obtain the divorce business; third, if courts of other states are required by the Supreme Court to accept such a finding, then they are being required to recognize that their own citizens were domiciled where those citizens were not domiciled; fourth, the divorce mill states, if other states must recognize their product, are enabled to fix the divorce law for every state in the union as to those citizens having the price of a trip to the divorce mill states; fifth, whatever we may think should be the solution of the difficult and vital divorce problem, it would be hard to conceive of a worse method of solving it than to have the law fixed for the whole country by a few states framing their law with the motive of making profit from severing marriages.—Ed.

18 STAT. 470 (1875), 24 STAT. 552 (1887), 25 STAT. 433 (1888), 29 U. S. C. A. §112 (1927) (Judicial Code §51). Italics supplied. The statute formerly read: "And no civil suit shall be brought before either of said courts [circuit or district] against any person by any original process or proceeding in any other district than that whereof he is an inhabitant, or in which he shall be found at the time of serving such process or commencing such proceeding..." 18 STAT. 470 (1875). Hollingsworth v. Adams, 12 Fed. Cas. 348, No. 6,611 (C. C. D. Penn. 1798).