

When foreign judgments will be enforced in actions in personam in England is, I think, well established, and the circumstances under which such judgments will be enforced in England are concisely noted in Buckley, L.J., in *Emanuel v. Symon* (1908), 1 K. B. 309, as follows:—

“In actions in personam there are five cases in which the Courts of this country will enforce a foreign judgment: (1) where the defendant is a subject of the foreign country in which the judgment has been obtained; (2) when he was resident in the foreign country when the action began; (3) when the defendant in the character of a plaintiff has selected the forum in which he is afterwards sued; (4) where he has voluntarily appeared; and (5) where he has contracted to submit himself to the forum in which the judgment was obtained.

In the case before us the learned trial Judge has held that the defendants came within the fifth rule mentioned because of a contract to be performed in New Brunswick, and by reason of such contract impliedly agreed to submit themselves to the New Brunswick forum. But such an implication is directly against the ruling of the Court of Appeal in the King's Bench case mentioned. There Channell, J., the trial Judge, had held that the defendant in that case, by joining a partnership for the working of a mine in Western Australia must be taken to have contracted that all partnership disputes, if any, should be determined by the Courts of Australia and thereby subjected himself to the jurisdiction of those Courts. But this holding of Channell, J. was overruled, and it was there stated to be clear according to English jurisprudence that there is no implied obligation on a foreigner to the country of that forum to accept the forum *loci contractus* as having, by reason of the contract acquired a conventional jurisdiction over him in a suit founded upon that contract for all future time, wherever the foreigner may be domiciled or resident at the time of the institution of the suit; that such an obligation may exist by express agreement, but is not to be implied from the mere fact of entering into a contract in a foreign country.

This case seems to me to conclude the question and against the ruling of the learned trial Judge.

It was urged before us that because the judgment in New Brunswick was obtained regularly there in accordance with the provisions and practice of that province for service