

and if his domicile was at Durham, the answer would be sufficient, though the rule of law should be admitted that the domicile of the wife followed that of her husband. But if the jurisdiction, by reason of the original domicile (Scotland), could be maintained, it would be attended with the most important consequences to the law of marriage." And Lord Brougham, in delivering a judgment some time afterwards, said, "I hold it to be perfectly clear that Lolley's case stands as the settled law of Westminster Hall at this day." For a long time, English judicial opinions were against the doctrine that an English marriage is dissoluble by a Scottish divorce, or any other. The reasoning by which this position was fortified was to the following effect: The *lex loci contractus* furnishes a just rule for the interpretation of the rights and obligations incidental to the marriage contract. If any other rule were adopted, marital rights and obligations would become loose and unsettled, and increase of immorality would be inevitable. It is not just that one party should be able, at his option, to dissolve a contract by a law different from that under which it was formed, and by which the other party understood it to be governed. There is no solid ground upon which any government can yield up its fundamental laws and policy as to its own subjects, in favor of the laws or acts of other countries.

This whole subject, however, recently came before the House of Lords in England, upon an appeal from the Court of Session in Scotland, in which the direct question was, whether it was competent for the Scottish courts to decree a divorce between parties domiciled in Scotland who were married in England? The preliminary question presented was, whether, even assuming the parties to be domiciled in Scotland, the suit could be maintained in Scotland for a divorce from an English marriage which was by the law of England indissoluble. The Court of Session affirmed the jurisdiction to decree the divorce; and this decree was, upon appeal, confirmed by the House of Lords. Lord Brougham, in delivering his judgment in this case, went into an elaborate examination of the general principles of international law, and in doing so maintained the opinion that upon principles of public law, a divorce from an English marriage, made by a competent court of a *foreign country* where the parties are domiciled, *ought* to be deemed in England to dissolve the marriage, and to confer upon the parties all the rights arising from a lawful dissolution. It must, however, be borne in mind that the House of Lords, sitting as a court of appeal in a case coming from Scotland, was bound to administer the law of Scotland; and it, therefore, did not decide what