"The English Courts will recognise the binding effect of a decree of divorce obtained in a State in which the husband is not domiciled if the Courts of his domicile would recognise the validity of the decree:" *Armitage* v. *A.-G.* [1906], P.D. 135.

The petitioner, a British subject, residing and domiciled in Victoria, B.C., went through a form of marriage with respondent in the State of Washington, U.S.A., and returned to Victoria to reside.

The respondent also resided in Victoria, B.C. prior to and at the time of the ceremony with petitioner, but her husband, during the same period, and at the time of the ceremony, was domiciled and resident in the State of Idaho, U.S.A.

Prior to the said ceremony the petitioner made transient visits to the State of Oregon, U.S.A., and succeeded in obtaining from the Courts of that State a decree of divorce.

It was found as fact by Murphy, J., that by the law of Oregon, one year's continuous residence in the State is necessary to give its Courts jurisdiction to decree divorce, and that the petitioner had not so resided for the requisite time.

The jurisdiction of the B.C. Court to declare the form of marriage between petitioner and respondent null and void cannot be questioned, for petitioner was domiciled in British Columbia at the time of the marriage, and of the trial, and the respondent, who resided there, claimed to be domiciled there also, by virtue of the alleged marriage to petitioner.

The question, however, of what laws were to be regarded in deciding upon the validity of the ceremony of marriage is quite a different one from that of jurisdiction, and, with respect, it cannot be conceded that the reasoning by which Murphy, J., reached his conclusion was altogether sound.

He quoted *Brook* v. *Brook*, 9 H.L.C. 193, that the essential validity of a marriage is governed by the law of the domicile, not the law of the place of marriage, as authority for his holding that as the petitioner was domiciled in B.C., the Courts there could construe and apply the law of Oregon as to divorce, but that was a case in which the capacity of a person domiciled in England to contract a marriage outside of it was in question, and here there was no question whatever as to the capacity of the petitioner, the party domiciled in B.C., but of the respondent, whose domicile was in the State of Idaho at the date of the ceremony with petitioner. The question before Murphy, J., was not, was the petitioner capable of marriage, for that was undeniable, but was the respondent capable, and the answer to that depended upon the other question, had she been validly divorced according to the law of her domicile?

"The validity of a divorce depends upon the *lex domicilii*." (Eversley, 3rd ed., 482). "The domicile for the time being of the married pair when the question of divorce arises affords the only true test of jurisdiction to dissolve their marriage, and such a divorce will be recognised by the English Courts even if granted for a cause which would not have been sufficient in England." (*Bater* v. *Bater*, [1906], P.D. 209.) "The domicile of a married woman is the same as that of her husband." (Brown and Watts on Divorce, 8th ed., 7). The domicile of the respondent's husband at the time of her divorce was in Idaho. If the