

decision as follows: "Their Lordships have in these circumstances, and upon these considerations, come to the conclusion that, according to international law, the domicile for the time being of the married pair affords the only true test of jurisdiction to dissolve their marriage. They concur, without reservation, in the views expressed by Lord Penzance in *Wilson v. Wilson*, which were obviously meant to refer not to questions arising in regard to the mutual right of married persons, but to jurisdiction in the matter of divorce." The Court of Appeal in England, also, in *Bater v. Bater* (1906), P. (C.A.) 209, 235, cited with approval the above judgment of the Privy Council.

Domicile is, therefore, according to the present state of the English Law, firmly established as the foundation for jurisdiction in actions for divorce, and this is the generally accepted rule according to International law. In the United States the rule has generally been adopted that the wife may, where she has been given cause for divorce, acquire a domicile distinct from that of her husband and institute proceedings therein, and domicile in the States appears to be on the whole tantamount to mere *bonâ fide* residence of a more or less limited duration, and a decree of divorce validly obtained in one State is by the comity of nations accepted as of binding force in all other States.

In Canada our courts have been swayed largely by the history of English law in this matter, and, as our position is very similar to that of England down to 1857, and as the Matrimonial Causes Act (Divorce Act) was not brought into operation in Canada, except in the provinces previously adverted to, the contractual theory of marriage appeared to be the accepted doctrine of our courts to a much later date than was the case in England. Our courts were, however, brought gradually to accept the later English doctrine that domicile alone gave jurisdiction to a foreign tribunal to pronounce a decree of divorce which would have any extra-territorial effect, and they adhere strictly to the rule that domicile must be an actual and permanent domicile or matrimonial home, and not mere residence acquired for the purpose of obtaining a divorce, and also that the domicile of the wife is that of the husband. It remains to be seen whether our courts will relax the