

hardt and the defendant, both had their domicile in Canada, and the marriage was celebrated in this Province.

Barnhardt had been a resident of the city of Toronto for a number of years before 1897. In the early part of that year he went to Detroit, for what purpose is not stated. He remained there apparently until the 5th July, 1897, the date of the marriage, when he came to Windsor and was married to the defendant, and remained in the Province until the following October. Up to this time there was nothing to evidence an intention to become domiciled in Michigan.

It is clear that there was no change of domicile in the interval between the marriage and the decree of divorce pronounced by the Surrogate Court of Wayne County in the State of Michigan. There was nothing more than a temporary change of residence. The marriage with Barnhardt took place on the 5th July, 1897. They continued to reside together in Canada until some time in the following September, when he went to Detroit. The defendant remained in Toronto until some time in October, when she too went to Detroit, but they did not live together. Each seems to have been advised to take proceedings for divorce as soon as the residence in Michigan was sufficient to enable them to be taken under the laws of the State. Each did take proceedings, and, after pleadings filed, the defendant's attorney withdrew her proceedings and allowed a decree of divorce to be pronounced on proof of the charges in Barnhardt's bill. Both then seem to have returned to reside in Toronto, as it appears from the case that the defendant in November, 1900, went through the ceremony of marriage with one John Pendril at Toronto, Barnhardt being at that time alive and a resident of Toronto.

The inference from these facts is that Barnhardt's permanent home was Toronto, and that he never changed or intended to change his domicile. The nature of his residence in Detroit and his conduct generally, so far as shewn, are inconsistent with the existence of an intention to reside there permanently.

The Courts in England have surrendered the theory once held that no English marriage could be dissolved by a foreign divorce. (See *Lolley's case* and *McCarthy v. DeCaix*, in note to *Warrender v. Warrender*, 2 Cl. & F. 567). It is now admitted that where the parties to such a marriage are bona fide domiciled in a foreign country, the tribunals of that country have jurisdiction to pronounce a divorce which will be held valid: *Dicey, Conflict of Laws*, 757.

But they are not bound by any principle of international