

which was equivalent to his being in New York and being served there; he made no objection to the jurisdiction and was condemned on evidence. Can he now repudiate the force of that decree? It is said that consent does not give jurisdiction. That is true of defect of authority in the tribunal, but it is not true of voluntary submission to or coming within the jurisdiction of a tribunal that has authority, more especially as regards a personal obligation in respect of which its fulfilment may be claimed anywhere that the law recognises it to have binding force. Especially is it appropriate that the sovereign authority which gave the contract its binding force should be the one to decree its dissolution for default of the fulfilment of the essential conditions on which its permanence was to depend.

It perhaps might, with reason, have been argued that if the tie had been created within the sovereign authority of a State whose laws did not permit of a dissolution, and the parties afterwards resorted for a divorce to New York, where the law permitted it, such divorce might be good within the State of New York, but would not be effective in the State or country of their matrimonial domicile.

It was argued that the Imperial Statute establishing the Divorce Court there, in giving authority to a resident there to be plaintiff in a divorce suit, exceeded and became an exception to the general rule which required the parties to be actually domiciled within the jurisdiction, but it seems to me that this argument is based upon the supposition that there is or ought to be such a general rule, the reason of which is not only doubted, but seriously questioned, and as I have already shown, puts it in the power of the husband to deprive the wife of all remedy. It might rather be inferred that the English legislation was the negation of any such rule, and in fact the sanction of a contrary rule as correct in principle.

Our own Civil Code, Art. 6, says:—"An inhabitant of Lower Canada, so long as he retains his domicile therein, is governed, even when absent, by its laws respecting the status and capacity of persons, but these laws do not apply to persons domiciled out of Lower Canada, who, as to their status and capacity, remain subject to the laws of their country."

This should be true as regards other countries

claiming jurisdiction over their subjects in Canada.

Bishop ("Marriage and Divorce") considers that a wife may acquire a domicile for the purposes of a divorce. This may be more true as between the States of the Federation than in regard to foreign countries, but the case is different when she is sought to be deprived of one.

It is to be borne in mind that the status of strangers is not created, but is only recognised here, that its creation abroad would have no force here save by comity, and the change of status operated by the power that created it, leaves the parties strangers with the status only which the sovereign power, to which they owe their allegiance, has given them, and in this case there is the same reason for the recognition of the status given them by the dissolution of the marriage as that first given them by the marriage itself; both acts equally depend on the foreign law, the force of which is only recognised by comity.

Acts of voluntary jurisdiction recognised by the sovereignty of each country as strictly speaking no judicial act has force beyond the sovereign territory for which and by whose power it is promulgated.

Foelix, t. 2, p. 384, No. 10, 2me ed.:—"Quant à la validité intrinsèque et pour ce qui concerne le futur conjoint étranger, il faut appliquer les lois du pays de son domicile, surtout ce qui est relatif à l'état et à la capacité de sa personne." See also *Muller v. Hilton*, 13 L. A. R., p. 1.

Le droit international, théorique et pratique, par Charles Calvi, 2me ed., t. 1, p. 366, § 247: "Si la célébration des mariages est une affaire d'intérêt public et social, la dissolution du lien conjugal n'a pas une importance moindre; elle est régie par les mêmes principes de jurisprudence internationale. Ainsi la dissolution d'un mariage judiciairement prononcée par voie de séparation de corps et de biens, ou par voie de divorce conformément aux lois du pays où le mariage a été célébré et où les conjoints avaient leur domicile, produit ses effets dans toute autre contrée. Mais d'après quelle règle se guider et quel principe doit-on appliquer quand la rupture du lien conjugal est poursuivie dans un autre pays que celui de la célébration du domicile, ou dans un pays dont la législation diffère de celle de la patrie des conjoints, c'est là une