

Pothier-Introd. Générale aux Cout., p. 4.

D'Argentré, Coutume, Art. 449.

Toullier, liv. 1, Tit. III., No. 371.

Civil Code, Art. 103.

And again :

" There must be an intention to reside permanently."

It would be easy to adduce pages of authority which would go to corroborate the doctrine here laid down, but the Court deems it unnecessary to do so. The principle is well known and every where acknowledged, that the intention to remain permanently must be combined with the fact of residence. In some cases this intention may be presumed, but in this instance there is no room for presumption; and if any presumption whatever could be invoked, it would be against the supposition that Connolly had abandoned his domicile of birth, with the intention of forming a new one in the North West territory. But we have positive evidence to show that he never had such intention, but entirely the contrary; he intended to return so soon as he could get rid of the country, and live happily in a civilized country. This, no doubt, was his intention, was always his intention, which he finally carried out; for he lived in Lower Canada eighteen years after his return and marriage to Miss Woolrich, and then died here. He had made his fortune, the object he had in view in going to the North West, and then returned. The *animus revertendi* is clearly and conclusively established in this case. But then it may be said, and has been urged in argument, that a residence of thirty years confers upon a man a domicile, particularly where he has been married and brought up his family, and carried on and transacted also his chief business in the locality. It will be remembered that lapse of time does not alter the case, when there is a constant, a persistent, intention to return, and no intention to remain. Where the *animus manendi* is wanting, and it is beyond all question as a matter of fact that where the matrimonial domicile of the wife is different from her husband, it does not cause him to lose his domicile of birth. No argument, no authority, is required to prove such to be true as propositions of law. But conceding, for the sake of taking a full and complete view of this matter, that Mr. Connolly, without any intention of remaining, but determined always to return to Canada, did acquire a new domicile in the North-West territory, the next duty of the Court will be to determine at what precise point in that vast and wild region Mr. Connolly had his domicile. Was that domicile at Rat River, or Fort Chippewayan, at Great Slave Lake, Lesser Slave Lake, the Rocky