

Sec. 1—Full Faith and Credit

ognition under the full faith and credit clause and the acts of Congress; the difference between the cases consisted solely in the fact that in the *Atherton* case the husband had driven the wife from their joint home by his conduct, while in the *Haddock* case he had deserted her. The court that granted the divorce in *Atherton v. Atherton* was held to have had jurisdiction of the marriage status, with the result that the proceeding was one *in rem* and hence required only service by publication upon the respondent. Haddock's suit, on the contrary, was held to be as to the wife *in personam* and so to require personal service upon her or her voluntary appearance, neither of which had been had; although, notwithstanding this, the decree in the latter case was held to be valid in the state where obtained because of the state's inherent power to determine the status of its own citizens. The upshot was a situation in which a man and a woman, when both were in Connecticut, were divorced; when both were in New York, were married; and when the one was in Connecticut and the other in New York, the former was divorced and the latter married. In *Atherton v. Atherton* the Court had earlier acknowledged that "a husband without a wife, or a wife without a husband, is unknown to the law."

The practical difficulties and distresses likely to result from such anomalies were pointed out by critics of the decision at the time. In point of fact, they have been largely avoided, because most of the state courts have continued to give judicial recognition and full faith and credit to one another's divorce proceedings on the basis of the older idea that a divorce proceeding is one *in rem*, and that if the applicant is *bona fide* domiciled in the state the court has jurisdiction in this respect. Moreover, until the second of the *Williams v. North Carolina* cases⁵¹ was decided in 1945, there had not been manifested the slightest disposition to challenge judicially the power of the states to determine what shall constitute domicile for divorce purposes. A few years before, the Court in *Davis v. Davis*⁵² rejected contentions adverse to the validity of a Virginia decree of which enforcement was sought in the District of Columbia. In this case, a husband, after having obtained in the District a decree of separation subject to payment of alimony, established years later a residence in Virginia and sued there for a divorce. Personally served in the District, where she continued to reside, the wife filed a plea denying that her husband was a resident of Virginia and averred that he was guilty of a fraud on the court in seeking to establish a residence for purposes of jurisdiction. In ruling that the Virginia decree, granting to the husband an absolute divorce minus any ali-

⁵¹ 317 U.S. 287 (1942) 325 U.S. 226 (1945).

⁵² 305 U.S. 32 (1938).