doing, it was upheld by the Supreme Court. *Sherrer v. Sherrer* and *Coe v. Coe*, previously discussed, were declared not to be in point, because no personal service had been made upon the first wife, nor had she in any way participated in the Nevada proceedings. She was not, therefore, precluded from challenging the findings of the Nevada court that the decedent was, at the time of the divorce, domiciled in that state.[62]

Claims for Alimony or Property in Forum State.—In *Esenwein v. Commonwealth*,[63] decided on the same day as the second *Williams* case, the Supreme Court also sustained a Pennsylvania court in its refusal to recognize an *ex parte* Nevada decree on the ground that the husband who obtained it never acquired a *bona fide* domicile in the latter state. In this instance, the husband and wife had separated in Pennsylvania, where the wife was granted a support order; after two unsuccessful attempts to win a divorce in that state, the husband departed for Nevada. Upon the receipt of a Nevada decree, the husband thereafter established a residence in Ohio and filed an action in Pennsylvania for total relief from the support order. In a concurring opinion, in which he was joined by Justice Black, Justice Douglas stressed the "basic difference between the problem of marital capacity and the problem of support," and stated that it was "not apparent that the spouse who obtained the decree can defeat an action for maintenance or support in another State by showing that he was domiciled in the State which awarded him the divorce decree," unless the other spouse appeared or was personally served. "The State where the deserted wife is domiciled has a deep concern in the welfare of the family deserted by the head of the household. If he is required to support his former wife, he is not made a bigamist and the offspring of his second marriage are not bastardized." Or, as Justice Rutledge succinctly stated in a concurring opinion, "the jurisdictional foundation for a decree in one state

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[62] Vermont violated the clause in sustaining a collateral attack on a Florida divorce decree, the presumption of Florida's jurisdiction over the cause and the parties not having been overcome by extrinsic evidence or the record of the case. Cook v. Cook, 342 U.S. 126 (1951). *Sherrer* and *Coe* were relied upon. There seems, therefore, to be no doubt of their continued vitality.

A Florida divorce decree was also at the bottom of another case in which the daughter of a divorced man by his first wife and his legatee under his will sought to attack his divorce in the New York courts and thereby indirectly his third marriage. The Court held that, because the attack would not have been permitted in Florida under the doctrine of *res judicata*, it was not permissible under the Full Faith and Credit Clause in New York. On the whole, it appears that the principle of *res judicata* is slowly winning out against the principle of domicile. Johnson v. Muelberger, 340 U.S. 581 (1951).

[63] 325 U.S. 279 (1945).