AMERICAN CONSTITUTIONALISM
VOLUME I: STRUCTURES OF GOVERNMENT
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Supplementary Material

Chapter 7: The Republican Era – Federalism

Haddock v. Haddock, 201 U.S. 562 (1906)

A wife (Harriet Haddock) sued her husband (John Haddock) in New York for alimony. The couple was married in New York in 1868, but the husband immediately abandoned her, before the marriage was even consummated. While she continued to live in New York, he "drifted about the country" and did not provide any financial support for her. Destitute and elderly, she found him in New York in the summer of 1899 and served him notice of the suit. The husband claimed that the marriage was obtained through fraud, that the two parties had mutually agreed to separate, that the wife had not asserted any marital rights since 1868, and that he had obtained a formal divorce decree from a Connecticut court in 1881 and remarried. In a New York trial, the referee (a judicial officer) found that the divorce decree was improperly awarded, that the husband was guilty of abandoning his wife Harriet, and that the wife was entitled to a legal separation and alimony. The referee's judgment was sustained in the New York courts, and John Haddock appealled to the U.S. Supreme Court. In a 5–4 decision, the Court affirmed the state courts.

The Court carved out a new but important exception to how divorce decrees were treated by other states through the full faith and credit clause. Although judgments in marriage and divorce cases are normally given extraterritorial effect, the Court here ruled that state courts were sometimes precluded from granting divorces. The Court held that the state in which the marriage was performed and the married couple lived was the "matrimonial domicil." Although one party to the wedding might abandon the marriage and relocate in a different state, that individual could not then turn to the local courts to establish a divorce. The states could only claim jurisdiction over the individuals within their territories, but "the marriage" as a status and relationship existed across state lines, and particularly in the state in which the couple, as such, had primary ties. The Court was concerned that individuals could flee across state lines and receive divorces with little legal process (the spouse might never be informed of the proceedings) in jurisdictions in which they and their spouses are largely strangers. New York was not obliged to recognize Haddock's Connecticut divorce.

What are the costs of allowing individuals to initiate divorce proceedings in other states? What are the benefits? Why might the Connecticut courts have jurisdiction over a New York resident's marriage? Is the only appropriate solution to nationalize divorce and to treat it under federal law and in federal courts? If New York was not obliged to recognize the Connecticut divorce, was the divorce nonetheless valid in Connecticut? Was John Haddock a bigamist?

JUSTICE WHITE delivered the opinion of the Court.

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The Federal question is, Did the court below violate the Constitution of the United States by refusing to give to the decree of divorce rendered in the State of Connecticut the faith and credit to which it was entitled?

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Where a personal judgment has been rendered in the courts of a State against a non-resident merely upon constructive service and, therefore, without acquiring jurisdiction over the person of the

defendant, such judgment may not be enforced in another State in virtue of the full faith and credit clause. Indeed, a personal judgment so rendered is by operation of the due process clause of the Fourteenth Amendment void as against the non-resident, even in the State where rendered, and, therefore, such non-resident in virtue of rights granted by the Constitution of the United States may successfully resist even in the State where rendered, the enforcement of such a judgment. . . .

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The principles, however, stated in the previous proposition are controlling only as to judgments *in personam* and do not relate to proceedings *in rem.* That is to say, in consequence of the authority which government possesses over things within its borders there is jurisdiction in a court of a State by a proceeding *in rem,* after the giving of reasonable opportunity to the owner to defend, to affect things within the jurisdiction of the court, even although jurisdiction is not directly acquired over the person of the owner of the thing.

The general rule . . . is, moreover, limited by the inherent power which all governments must possess over the marriage relation, its formation and dissolution, as regards their own citizens. From this exception it results that where a court of one State, conformably to the laws of such State, or the State through its legislative department, has acted concerning the dissolution of the marriage tie, as to a citizen of that State, such action is binding in that State as to such citizen, and the validity of the judgment may not therein be questioned on the ground that the action of the State in dealing with its own citizen concerning the marriage relation was repugnant to the due process clause of the Constitution. . . .

Where the domicil of matrimony was in a particular State, and the husband abandons his wife and goes into another State in order to avoid his marital obligation, such other State to which the husband has wrongfully fled does not, in the nature of things, become a new domicil of matrimony, and, therefore, is not to be treated as the actual or constructive domicil of the wife; hence, the place where the wife was domiciled when so abandoned constitutes her legal domicil until a new actual domicil be by her elsewhere acquired. This was clearly expressed in *Barber v. Barber* (1858).

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So also it is settled that where the domicil of a husband is in a particular State, and that State is also the domicil of matrimony, the courts of such State having jurisdiction over the husband may, in virtue of the duty of the wife to be at the matrimonial domicil, disregard an unjustifiable absence therefrom, and treat the wife as having her domicil in the State of the matrimonial domicil for the purpose of the dissolution of the marriage, and as a result have power to render a judgment dissolving the marriage which will be binding upon both parties, and will be entitled to recognition in all other States by virtue of the full faith and credit clause. *Atherton v. Atherton* (1901).

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[T]he case reduces itself to this: Whether the Connecticut court, in virtue alone of the domicil of the husband in that State, had jurisdiction to render a decree against the wife under the circumstances stated, which was entitled to be enforced in other States in and by virtue of the full faith and credit clause of the Constitution. . . .

. . . . [I]t must always be borne in mind that it is elementary that where the full faith and credit clause of the Constitution is invoked to compel the enforcement in one State of a decree rendered in another, the question of the jurisdiction of the court by which the decree was rendered is open to inquiry. And if there was no jurisdiction, either of the subject matter or of the person of the defendant, the courts of another State are not required, by virtue of the full faith and credit clause of the Constitution, to enforce such decree. . . .

. . . . Under the rule contended for it would follow that the States whose laws were the most lax as to length of residence required for domicil, as to causes for divorce and to speed of procedure concerning divorce, would in effect dominate all the other States. In other words, any person who was married in one State and who wished to violate the marital obligations would be able, by following the lines of least resistance, to go into the State whose laws were the most lax, and there avail of them for the purpose of

the severance of the marriage tie and the destruction of the rights of the other party to the marriage contract, to the overthrow of the laws and public policy of the other States. . . . .

It is urged that the suit for divorce was a proceeding *in rem,* and, therefore, the Connecticut court had complete jurisdiction to enter a decree as to the *res,* entitled to be enforced in the State of New York. . . . [W]hat, may we ask, was the *res* in Connecticut? Certainly it cannot in reason be said that it was the cause of action or the mere presence of the person of the plaintiff within the jurisdiction. The only possible theory then upon which the proposition proceeds must be that the *res* in Connecticut, from which the jurisdiction is assumed to have arisen, was the marriage relation. But as the marriage was celebrated in New York between citizens of that State, it must be admitted, under the hypothesis stated, that before the husband deserted the wife in New York, the *res* was in New York and not in Connecticut. As the husband, after wrongfully abandoning the wife in New York, never established a matrimonial domicil in Connecticut, it cannot be said that he took with him the marital relation from which he fled to Connecticut. . . . Thus considered, it is clear that the power of one State did not extend to affecting the thing situated in another State. . . .

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. . . . [This proposed rule] does not deprive a State of the power to render a decree of divorce susceptible of being enforced within its borders as to the person within the jurisdiction and does not debar other States from giving such effect to a judgment of that character as they may elect to do under mere principles of state comity. It causes the full faith and credit clause of the Constitution to operate upon decrees of divorce in the respective States just as that clause operates upon other rights, that is, it compels all the States to recognize and enforce a judgment of divorce rendered in other States where both parties were subject to the jurisdiction of the State in which the decree was rendered, and it enables the States rendering such decrees to take into view for the purpose of the exercise of their authority the existence of a matrimonial domicil from which the presence of a party not physically present within the borders of a State may be constructively found to exist.

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Without questioning the power of the State of Connecticut to enforce within its own borders the decree of divorce which is here in issue, and without intimating a doubt as to the power of the State of New York to give to a decree of that character rendered in Connecticut, within the borders of the State of New York and as to its own citizens, such efficacy as it may be entitled to in view of the public policy of that State, we hold that the decree of the court of Connecticut rendered under the circumstances stated was not entitled to obligatory enforcement in the State of New York by virtue of the full faith and credit clause. It therefore follows that the court below did not violate the full faith and credit clause of the Constitution in refusing to admit the Connecticut decree in evidence, and its judgment is, therefore, *Affirmed*.

JUSTICE BROWN, with whom JUSTICE HARLAN, JUSTICE BREWER, and JUSTICE HOLMES joined, dissenting.

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There is no doubt of the proposition that a decree of divorce may be lawfully obtained at the matrimonial domicil, notwithstanding that the defendant may have taken up his or her residence separate from the other party in another State, providing that the law of the domicil with respect to the personal service or publication be scrupulously observed.

Doubtless the jurisdiction of the court granting the divorce may be inquired into, and if it appears that the plaintiff had not acquired a *bona fide* domicil in that State at the time of instituting proceedings, the decree is open to a collateral attack, and a recital in the proceedings of a fact necessary to show jurisdiction may be contradicted.

Subject to these conditions, each State has the right to regulate the marital *status* of its citizens, at least so far as to determine in what manner and by whom marriages may be solemnized, what shall be deemed the age of consent, what obligations are assumed, what property rights are created, for what causes divorces shall be granted, for what length of time the domicil of plaintiff shall have been acquired prior to the institution of the proceedings, and in what manner notice shall be given to the defendant. Nor is the power of the legislature in this connection ousted by the fact that the other party to the contract resides in another State, provided that in case of proceedings adverse to such party he or she shall be given such notice as due process of law requires. If such proceedings be *in rem* or quasi *in rem*, notice by publication is ordinarily deemed sufficient. But in case of actions *in personam* for the recovery of damages, personal service within the jurisdiction is vital to the proceedings.

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Undoubtedly the laws of some States are more liberal upon the subject of divorce than those of other States, but that does not affect the question. If the complaining party has acquired a domicil in the State in which he institutes proceedings, he is entitled to the benefit of the laws of the State with respect to the causes of divorce.

. . . . It is argued that, as the Constitution delegated no authority to the Government of the United States on the subject of marriage and divorce, yet, if the validity of the Connecticut divorce in this case be sustained, it follows that the destruction of the power of the States over the dissolution of marriage of its own citizens would be brought about by the full faith and credit clause of the Constitution. But this was the very point decided in the *Atherton* case, where a divorce obtained in Kentucky by publication was held good in New York, as against a proceeding by the wife for a divorce in that State. It is true that the matrimonial domicil was in Kentucky. But this does not affect the proposition asserted in the opinion, that the decree did work a dissolution of the marriage, as to her, by the operation of the full faith and credit clause of the Constitution, and to that extent it did work a destruction of the power of the State of New York over the dissolution of the marriage. . . . It is of the very essence of proceedings *in rem* that the decree of a court with respect to the *res,* whether it be a vessel, a tract of land or the marriage relation, is entitled to be respected in every other State or country. The *status* fixed by the adjudication in the State of the former is operative everywhere. Indeed, the proposition is so elementary as not to need the citation of an authority.

The conclusion of the argument is that, the courts of New York having the same power to decree a dissolution of the marriage at the suit of the wife, that the courts of Connecticut would have to make a similar decree at the suit of the husband, it would become a mere race of diligence between the parties in seeking different forums in other States; or the celerity by which in such States judgments of divorce might be procured, would have to be considered in order to decide which forum was controlling. Granting this to be the case, does not every plea of *res adjudicata* presuppose a prior judgment, and is it a defense to such plea that such judgment was obtained by superiority in a race of diligence? The whole doctrine is founded, if not upon the doctrine of superior diligence, at least upon the theory of a prior judgment, which fixes irrevocably the rights of the parties, whenever and wherever these rights may come in question. . . .

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I regret that the court in this case has taken what seems to me a step backward in American jurisprudence, and has virtually returned to the old doctrine of comity, which it was the very object of the full faith and credit clause of the Constitution to supersede.

JUSTICE HOLMES, with whom JUSTICE HARLAN, JUSTICE BREWER, and JUSTICE BROWN joined, dissenting.

I do not suppose that civilization will come to an end whichever way this case is decided. But as the reasoning which prevails in the mind of the majority does not convince me, and as I think that the decision not only reverses a previous well-considered decision of this court but is likely to cause considerable disaster to innocent persons and to bastardize children hitherto supposed to be the offspring of lawful marriage, I think it proper to express my views. Generally stated, the issue is whether, when a husband sues in the court of his domicil for divorce from an absent wife on the ground of her desertion, the jurisdiction of the court, if there is no personal service, depends upon the merits of the case. If the wife did desert her husband in fact, or if she was served with process, I understand it not to be disputed that a decree of divorce in the case supposed would be conclusive, and so I understand it to be admitted that if the court of another State on a retrial of the merits finds them to have been decided rightly its duty will be to declare the decree a bar to its inquiry. . . .

In *Atherton* v. *Atherton* (1901), a divorce was granted, on the ground of desertion, to a husband in Kentucky against a wife who had established herself in New York. She did not appear in the suit and the only notice to her was by mail. Before the decree was made she sued in New York for a divorce from bed and board, but pending the latter proceedings the Kentucky suit was brought to its end. The husband appeared in New York and set up the Kentucky decree. The New York court found that the wife left her husband because of his cruel and abusive treatment, without fault on her part, held that the Kentucky decree was no bar and granted the wife her divorce from bed and board. The New York decree, after being affirmed by the Court of Appeals, was reversed by this court on the ground that it did not give to the Kentucky decree the faith and credit which it had by law in Kentucky. Of course, if the wife left her husband because of his cruelty and without fault on her part, as found by the New York court, she was not guilty of desertion. Yet this court held that the question of her desertion was not open but was conclusively settled by the Kentucky decree.

There is no difference, so far as I can see, between *Atherton* v. *Atherton* and the present case, except that in *Atherton* v. *Atherton* the forum of the first decree was that of the matrimonial domicil, whereas in this the court was that of a domicil afterwards acquired. . . .

. . . . The only reason which I have heard suggested for holding the decree not binding as to the fact that he was deserted, is that if he is deserted his power over the matrimonial domicil remains so that the domicil of the wife accompanies him wherever he goes, whereas if he is the deserter he has no such power. Of course this is a pure fiction, and fiction always is a poor ground for changing substantial rights. It seems to me also an inadequate fiction, since by the same principle, if he deserts her in the matrimonial domicil, he is equally powerless to keep her domicil there, if she moves into another State. The truth is that jurisdiction no more depends upon both parties having their domicil within the State, than it does upon the presence of the defendant there, as is shown not only by *Atherton* v. *Atherton,* but by the rights of the wife in the matrimonial domicil when the husband deserts.

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I may add, as a consideration distinct from those which I have urged, that I am unable to reconcile with the requirements of the Constitution, Article 4, section 1, the notion of a judgment being valid and binding in the State where it is rendered, and yet depending for recognition to the same extent in other States of the Union upon the comity of those States. No doubt some color for such a notion may be found in state decisions. State courts do not always have the Constitution of the United States vividly present to their minds. . . .