

Louisiana Law Review

Volume 14 | Number 1

The Work of the Louisiana Supreme Court for the

1952-1953 Term

December 1953

Civil Code and Related Subjects: Conflict of Laws

Joseph Dainow

Repository Citation

Joseph Dainow, *Civil Code and Related Subjects: Conflict of Laws*, 14 La. L. Rev. (1953)

Available at: <https://digitalcommons.law.lsu.edu/lalrev/vol14/iss1/31>

This Article is brought to you for free and open access by the Law Reviews and Journals at LSU Law Digital Commons. It has been accepted for inclusion in Louisiana Law Review by an authorized editor of LSU Law Digital Commons. For more information, please contact kreed25@lsu.edu.

CONFLICT OF LAWS

*Joseph Dainow**

DIVORCE JURISDICTION

The Louisiana two-year divorce statute¹ was interpreted in the case of *Davidson v. Helm*² as permitting a nonresident spouse (domiciled in Mississippi) to institute suit in Louisiana against the resident spouse in the court of the defendant's domicile. Although two justices dissented on this interpretation of the statute, there was no question in the court's mind about the state's legislative competence to enact such a law; nor is there any doubt that the instant decree would be given full faith and credit in other states of the Union.³

CUSTODY AND ALIMONY

In the case of *Wilmot v. Wilmot*,⁴ the court took a very liberal attitude toward a number of issues involving custody and alimony following a divorce. Without wavering as to jurisdiction and authority, and acting in the interests of the children's welfare, the court granted an order permitting the mother with custody of the children to remove herself and the children to another state; at the same time, the court ordered the father to pay for their support as well as alimony to the mother in Tennessee. Although the Louisiana court considered that it had continuing jurisdiction which could be exercised through constructive service,⁵ certain reservations must be kept in mind concerning its effectiveness. As long as the circumstances remain the same, the courts of Tennessee would give full faith and credit to the Louisiana custody decree, but whenever there was evidence of changed circumstances, the Tennessee court could proceed to render a new custody decree.⁶ Presumably the Louisiana court realized this possibility and still felt it in the best interest of the children's welfare to permit their removal to Tennessee.

* Professor of Law, Louisiana State University.

1. La. R.S. 1950, 9:301.

2. 222 La. 759, 63 So. 2d 866 (1953). The defendant was personally served, but made no appearance.

3. *Williams v. North Carolina*, 317 U.S. 287 (1942); 325 U.S. 226 (1945); and subsequent developments.

4. 223 La. 221, 65 So. 2d 321 (1953).

5. La. R.S. 1950, 9:303.

6. *New York ex rel. Halvey v. Halvey*, 330 U.S. 610 (1947).