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DOMESTIC RELATIONS—DIVORCE—JURISDICTION TO GRANT.—The plaintiff was deserted by her first husband who never left New York, the marital domicile. She went to Reno, Nevada, where she established a residence, voted, and secured a divorce. Upon her return to New York she sued her husband for support of the children, alleging her residence in that state. She married the defendant from whom she now seeks a separation. The defendant contends that his marriage with the plaintiff is void. *Held*: The plaintiff's residence in Nevada was merely a temporary one for the sole purpose of giving a colorable right to her to maintain the divorce suit there. Plaintiff's immediate return to New York after the decree, together with the fact that she made affidavit that she was a resident of that state, sustain such a finding. The Reno divorce is not entitled to recognition and the marriage with the defendant was void. *Lefferts v. Lefferts* (1933) 263 N. Y. 131, 188 N. E. 279.

This case is but another example of the strict New York rule with regard to foreign divorce decrees. The validity of the second marriage had to depend upon the status of the Nevada divorce. The full faith and credit clause of the United States Constitution does not require New York to recognize the foreign decree because Nevada had neither personal jurisdiction of both the parties nor control of the marital domicile. *Haddock v. Haddock* (1906) 201 U. S. 562; *Kimball v. Kimball* (1898) 155 N. Y. 62, 49 N. E. 331; *Fischer v. Fischer* (1930) 254 N. Y. 463, 173 N. E. 680.

Thus the validity of the foreign decree depended upon the application of the principles of comity. Generally New York refuses to recognize foreign divorce decrees when there has been no personal service upon, nor voluntary appearance by, a defendant unless the ground for the foreign divorce would be valid in New York, i. e., adultery. *Winston v. Winston* (1901) 165 N. Y. 553, 59 N. E. 273; *Ball v. Cross* (1921) 231 N. Y. 329, 132 N. E. 106. In the last named case the Court of Appeals said that the public policy of the state would not permit the court to give effect, as against its own citizens, to a judgment affecting the marital status, obtained "on grounds thought by us to be insufficient." This rule is founded upon the theory that New York should protect its citizens from foreign decrees inconsistent with New York laws.

When the protection of New York citizens is not involved the courts of that state will recognize the foreign divorce even though it be for a cause other than adultery and the defendant was not personally served within the jurisdiction rendering the decree. *Hubbard v. Hubbard* (1920) 228 N. Y. 81, 126 N. E. 508 (divorce proceedings in Massachusetts but the defendant husband had not become a resident of New York until after the separation had occurred in Pennsylvania); *Ball v. Cross*, *supra* (the defendant in the divorce proceedings in Nevada was a resident of Missouri and there was no showing that the decree would not be recognized in that state); *Kaufman v. Kaufman* (1917) 177 App. Div. 162, 163 N. Y. S. 566, affirming 160 N. Y. S. 19 (there was no showing that the defendant in the Reno divorce proceedings had been a New York citizen at that time).

It is worthy of note that in each of the three cases above the second husband was suing for an annulment, asking for affirmative relief, as was pointed out in *Fischer v. Fischer*, *supra*. It is submitted that the validity of a foreign decree should not be rested upon the point as to whether it is used as a weapon or a defense, yet the New York courts seem to tend to-

ward this position. In the *Hubbard, Ball*, and *Kaufman* cases the foreign decree's invalidity was used as a ground for annulment and the New York courts recognized the decree in order to defeat the action, while in the principal case as well as in the *Fischer* case the foreign decree's invalidity was used as a defence and the court turned around and refused to recognize it. If the New York policy is to protect its citizens it should be consistent and not place its grounds of recognition or non-recognition on the mere absence of a showing that the defendant in the foreign divorce proceeding was a citizen of New York at the exact time the decree was handed down.

In the principal case the first husband had actual notice of the pendency of the suit. This fact is of no consequence in New York, *Williams v. Williams* (1891) 130 N. Y. 193, 29 N. E. 98; but in other states such a showing would be taken very favorably in recognition of such decree on the principles of comity. *Felt v. Felt* (1899) 59 N. J. Eq. 606, 45 Atl. 105; *Kenner v. Kenner* (1917) 139 Tenn. 211, 201 S. W. 779. The need for a uniform system of divorce laws in the several states is manifest. There should be a better application of the principles of comity at least to prevent the anomalous situations of having a marriage considered valid in one state and a meretricious relation in another.

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HOMICIDE—KILLING ANOTHER IN ATTEMPT TO COMMIT SUICIDE.—The defendant drew a revolver from his pocket with the intention of committing suicide. The deceased interfered and tried to prevent him. In the ensuing struggle the defendant's revolver was discharged, and the deceased was fatally wounded. The jury was instructed by the trial judge that suicide is an offense in the eyes of the law and that if a man, with a deadly weapon, undertakes to take his own life and in consequence takes the life of an innocent party, he is guilty of murder. The defendant was convicted of murder in the second degree. On appeal, *held*: The attempt to commit suicide, not being made unlawful by statute in Iowa is not an unlawful act, and hence the accused was not guilty of murder. *State v. Campbell* (Iowa 1933) 251 N. W. 717.

The question of whether an unintentional homicide caused in an attempt to commit suicide will constitute murder depends upon whether suicide is held to be a crime in the particular jurisdiction. If suicide is deemed a felony, then any homicide committed in the commission of, or in an attempt to commit suicide is murder. *State v. Levelle* (1890) 34 S. C. 120, 13 S. E. 319. If suicide is not a felony but is recognized as an unlawful act, any homicide unintentionally caused in the attempt to commit suicide is held to be manslaughter. *State v. Lindsey* (1885) 19 Nev. 47, 5 Pac. 822.

By the early common law of England suicide was a felony and punishable by forfeiture of the goods and chattels of the suicide and the ignominious burial of his body in the highway. In New Jersey, by statute, the attempt to commit suicide is an indictable offense. *State v. Carney* (1903) 69 N. J. L. 478, 55 Atl. 44.

However the general view is that the English law of suicide is not in accord with the spirit of our institutions and in the absence of statute the act is not a crime in the United States. *May v. Pennell* (1906) 101 Me. 516, 64 Atl. 885; *Darrow v. Family Fund Society* (1889) 116 N. Y. 537, 22 N. E. 1093. But in some jurisdictions the compromise view that suicide is simply "un-