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Foreign divorces becoming popular

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If an alien, say, in New York, wants to divorce his wife, may he do so even though he does not have any of the grounds as provided for under New York law?

Yet, but he has to go to another state or to a foreign country to obtain the judgment.

Foreign divorces have been popular lately. This is true not only in New York but also in other states. The spouses may not be able to prove any of the divorce grounds under the state of their domicile. They may just want to separate because of mere incompatibility. In some cases, they may want a quick divorce, one that can be obtained in just a few hours.

A divorce obtained in another state is recognized because of the so-called full faith and credit clause of the U.S. Constitution. Generally, if a state has jurisdiction to grant a divorce, such divorce would be valid in every other state. Individual states are obliged to accept rights and obligations established under the laws and judicial proceedings of the other states. They are not independent sovereignties but integral parts of a single nation.

On the other hand, a divorce obtained in a foreign country may be recognized by a state, not because of the full faith and credit clause, but because of comity. This recognition is to give due regard both to international duty and convenience.

Foreign divorces must, however, be resorted to with caution, because there are cases when they are not valid, and any subsequent remarriage may not confer immigration benefits to the spouse beneficiary.

In **Matter of Norton**, the husband was a U.S. citizen residing in Michigan, and he married a Filipina after the Filipina had gotten a Mexican mail-order divorce from her husband, also a Philippine citizen. When the American petitioned for the Filipina to become an immigrant, the Immigration Service denied his petition on the ground that he had failed to establish a bona fide marriage relationship. It was held that the Mexican divorce was not valid in Michigan, the place of marriage, since the court in Mexico did not have jurisdiction over the parties.

The same decision was arrived at in **Matter of Dagamac**. There, the petitioner husband, a native of the Philippines, was a naturalized U.S. citizen. He obtained a Mexican divorce against his Filipina wife and then went back to Pasay City where he married the beneficiary.

The record established that neither the petitioner nor his first wife whom he divorced ever went to or resided in Mexico. The Immigration Board concluded that the husband was not free to marry under Philippine law.

From the two above cited cases, it is clear that if the spouses did not appear in the court granting the divorce, said divorce would generally be invalid.

How about Dominican or Haitian divorces, where one of the spouses fly to Santo Domingo, bringing with him a document signed by his wife before a Notary Public. He appears in court and he alleges neither culpability nor fault on the part of his wife. Almost immediately after his arrival in the court the final decree is granted. Is this valid?

Please note that both the spouses submit themselves to the jurisdiction of the court and they manifest their mutual consent. The husband is physically present and the wife appears through a special power of attorney. Such bilateral divorce is valid. New York courts for instance have held that a bilateral Haitian divorce or even a bilateral Mexican divorce is recognized even though it was based on incompatibility a ground not found under New York law. According to the courts, such recognition did not offend public policy.