

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.

S. M., '34.

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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-

lawful" and that one who, in attempting to commit suicide, kills another is guilty of manslaughter prevails. *Commonwealth v. Mink* (1878) 123 Mass. 422; *State v. Lindsey*, *supra*.

The cases are also divided as to the effect of suicide pacts and of one person aiding another to commit suicide. It is generally recognized that if two persons encourage each other to commit suicide jointly and one succeeds and the other fails in the attempt upon himself, the survivor is guilty of the murder of the other. Even in states where suicide itself is not a crime this result is reached. *Blackburn v. Ohio* (1872) 23 Ohio St. 146; *Burnett v. People* (1903) 204 Ill. 208, 68 N. E. 505. One who furnishes another with means for committing suicide at the latter's request may be guilty of murder. *People v. Roberts* (1920) 211 Mich. 187, 178 N. W. 690; *Commonwealth v. Bowen* (1816) 13 Mass. 356. Contra to these decisions is *Sanders v. State* (1908) 54 Tex. Cr. Rep. 101, 112 S. W. 68, holding that since it is not a violation of law for a person to commit suicide, one furnishing another the means to the commission of suicide violates no law. E. M. H., '35.

MOTOR VEHICLES—REGISTRATION.—In the recent case of *Furtado v. Humphrey* (*Popkin v. Same*, *Warren v. Same*) 188 N. E. 391, decided Dec. 28, 1933, Massachusetts has gone even farther in extending her peculiar doctrine of the necessity of proper registration of automobiles in order to avoid the taint of outlawry on the highways. Gen. Laws of Mass. (Ter. Ed.) c. 90, paragraphs 2, 9. This doctrine which allows the owner of an "improperly" registered car no recovery for personal injuries or for injuries to his car although a clear case of negligence exists against a third party seems to be well established in Massachusetts. *Dudley v. Northampton St. Ry.* (1909) 202 Mass. 443, 89 N. E. 25; *Hanson v. Culton* (1929) 269 Mass. 471, 169 N. E. 272. However, Georgia is the only one of a number of states having similar registration statutes that follows the "outlawry" interpretation. 17 Iowa Law Rev. (1931) l. c. 95, n. 4; 96, n. 6. There have been several articles and notes containing well-directed criticism of the Massachusetts rule. 17 Iowa Law Rev. (1931) 94; 95 Cent. L. J. 274 (1922); 32 Yale L. J. 394 (1922); 38 Harv. L. R. 531 (1924).

The case of *Furtado v. Humphrey* extends the doctrine of "outlawry" by more strictly construing what shall constitute "proper registration." In that case a Mr. Popkin, one of three partners, registered a truck owned by the partnership under the following title, "United Produce Co. by B. Popkin." In answering one of the statements required to be made under the penalties of perjury—"Is this vehicle owned by you individually?"—Popkin said "Yes"; and he did not answer "Yes" or "No" to the question—"Or is it owned jointly or by a cooperative association or corporation?" The court held that inasmuch as the Statute required that "application for the registration of motor vehicles and trailers may be made by the owner thereof" and as this requirement of statement of ownership is a matter made vital by the Statute to be strictly construed the registration being in Popkin's name alone when he was only joint owner, the truck was improperly registered (outlawed) and therefore Popkin, his partner, and the partnership chauffeur could not recover for personal injuries and damages to the truck although the defendant admits that "there was evidence upon which the jury could have found him negligent." (Not only the owner of an improv-