

agreement for a period of two years after the execution of such an agreement. (Chapter 254 and proposed amendments to it are to be found in appendices #66 and #68 of the Proceedings, pp. 1185 ff. 1202 ff. The major proposals in appendix #68 HAVE NOT been adopted.)

It is further provided under items (v) & (vi) that the plaintiff must have "duly" performed all the terms and conditions of the separation decree or agreement. It is also stipulated that any separation agreement must be filed with the clerk of the county in which the parties reside within thirty-days of its execution, if it is to form the basis of a subsequent divorce action. Merely having lived separate and apart is not sufficient to found a petition on the ground of separation. It should also be noted, that these provisions are regarded specifically as "grounds for divorce" and not in any way as *prima facie* evidence of marriage breakdown. Thus the court does not have the discretion to refuse the decree if there is a likelihood of a resumption of cohabitation. Insanity does not exist as a ground for divorce under the New York Domestic Relations Law. However, if either spouse can be shown to be permanently insane, then the marriage can be dissolved. However, provision has to be made for the upkeep of the insane partner. This is neither a divorce proceeding nor an annulment but is provided for under the state mental hygiene laws.

New York has also sought to abolish the traditional defences and bars to divorce. Until the introduction of recent legislation, a divorce could be denied because of the equal guilt of both parties, as well as because of collusion, connivance or condonation. However, in New York the distinction between law and equity is recognized, and it is felt that the bars of collusion and connivance are thus unnecessary because a court would refuse a divorce as a matter of justice in cases where the evidence has been faked or the court deliberately mislead.

2. Domicile

The state of New York permits a married woman to establish her own domicile. Section 61 of the New York Domestic Relations Law states;

"The domicile of a married woman shall be established by the same facts and rules of law as that of any other person for the purposes of voting and office-holding."

A married woman may commence matrimonial proceedings if she is resident in the state of New York regardless of where her husband lives. Section 231 of the Domestic Relations Law reads:

"If a married woman dwells within the state when she commences an action against her husband for divorce, annulment or separation, she is deemed a resident thereof, although her husband resides elsewhere."

A recent amendment to the Domestic Relations Law, Section 230, effective September 1, 1967, provides that an action for divorce may be maintained when "either party has been a resident of the state for a continuous period of at least two years immediately preceding the commencement of the action".

3. Conciliation

It is the purpose of New York's Domestic Relations Law to save marriages as well as to dissolve them.

The 1966 Act established a conciliation bureau in each Judicial District (Art. 11—B, Section 215a) and the law provides that the plaintiff to a divorce action