

MARRIAGE, )  
 )  
FOREIGN COUNTRIES: ) A marriage between first cousins  
 ) legally performed in Italy would  
 ) be valid in Missouri.

November 16, 1951

11-20-51



The Honorable Forrest Smith  
Governor of Missouri  
Jefferson City, Missouri

Dear Governor Smith:

We have given careful consideration to your communication submitting a request from the Department of State for an official opinion, which request is as follows:

"The Department has received an inquiry from the American Consulate General at Naples, Italy concerning the validity in Missouri of the marriage between first cousins legally performed in Italy. The alien's wife has applied at the American Consulate General for a non-quota immigration visa to come to this country and join her husband who resides in Missouri. In considering whether a visa may properly be issued to the alien visa applicant, the Consular Officer in Naples must determine the alien's admissibility into the United States under the immigration laws.

"I would, therefore, appreciate being advised whether a marriage between first cousins legally performed in Italy would be recognized as valid in Missouri. If your answer is in the negative, I would like to be informed whether the parties to the marriage may nevertheless cohabit as man and wife in your state without being subject to possible prosecution."

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Marriage between first cousins in Missouri is prohibited under Section 451.020, RSMo 1949. The general rule, however, is that a marriage, legally contracted in any state or country, is valid everywhere.

The Supreme Court of Missouri, in the case of Johnson v. Johnson, 30 Mo. 72, l. c. 88, said:

"It is well settled, as a general proposition, that a marriage, valid according to the law or custom of the place where it is contracted, is valid everywhere. \* \* \*"

The same high court, in the case of Banks v. Galbraith, 149 Mo. 529, l. c. 536, said:

"The cases decided by the courts sustaining marriages between white men and Indian women in the Indian country simply conform to an almost universal principle of international law, that a marriage celebrated in other States and countries if valid by the laws of such countries are valid in this State even though the same might by the force of our laws be invalid if contracted here. \* \* \*"

The Supreme Court of the United States defined this principle in the case of Loughran v. Loughran, 78 L. Ed. 1219. In the course of that opinion, at page 1223, the court said:

"Marriages not polygamous or incestuous, or otherwise declared void by statute, will, if valid by the law of the State where entered into, be recognized as valid in every other jurisdiction. \* \* \*"

Marriage between first cousins is not incestuous under the laws of Missouri as contained in Section 563.220, RSMo 1949. Neither is such marriage, legally performed elsewhere, declared void by any statute of this state.

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CONCLUSION

It is the opinion of this office that a marriage between first cousins legally performed and valid in Italy would be recognized as valid in Missouri.

Respectfully submitted,

B. A. TAYLOR  
Assistant Attorney General

APPROVED:

  
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BAT/fh