

"Making Divorce Easy" Agitates England

By W. P. CROZIER

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AS I explained in my last article, all parties in England are agreed that whatever grounds entitle a husband to divorce his wife must in future entitle a wife also to divorce her husband. But when we begin to consider what are the good and sufficient causes of divorce, agreement ends and fierce controversy begins. It scarcely needs to be added that in all the dispute much is made on both sides, but especially by those who declaim against "making divorce easy," after the example and practice of the United States.

At present a husband can obtain divorce for the physical misconduct of his wife; a wife must prove both misconduct and desertion or cruelty. There is no dispute nowadays that misconduct alone should be regarded as sufficient reason. But should other reasons beyond that be recognized? Yes, says a large part of public opinion, and its views have lately been embodied in Lord Buckmaster's bill, which is now before the House of Lords. No, say others, whose opinion was lately expressed in the House of Lords by a Roman Catholic peer, Lord Braye, who declared of Lord Buckmaster's bill that it is "the most terrible measure which Parliament could possibly pass" and, reflecting on the state to which easy divorce might yet reduce this country, added, "I recollect reading in the newspapers of a marriage in Switzerland where there were four bridesmaids and every one of these so-called bridesmaids was a divorced wife of the bridegroom!"

The latter party takes its stand on the proposition that marriage, once concluded, is "for better or for worse," and that nothing but the gravest violation of the marriage tie can justify its dissolution. In this attitude they insist on the supreme importance of the corporal union involved in marriage and, by inference, depreciate the value of the spiritual bond.

Their opponents, on the other hand, maintain that when an evil like incurable insanity or habitual drunkenness has in actual fact destroyed the marriage tie, nothing but evil can result alike to the state, the family and the individuals concerned from maintaining it by forms of law. So far, they say, from the present law strengthening morality, it actively promotes immorality, for, be it remembered, although causes like cruelty, drunkenness and desertion are not in themselves legal grounds for divorce, they are grounds for legal separation. The result is that every year thousands of "separation orders" are granted, which result in the parties to a marriage living apart, and inevitably, in a large proportion of cases, forming irregular unions and living therefore in a "state of immorality." A considerable part of such irregular unions would not take place at all if the reasonable grounds for divorce were extended to cover cases in which the whole spirit of the marriage state has already been violated and its object made fruitless. What, then, would such extension mean?

The majority report of the great Divorce Commission, whose conclusions form the basis of the modern reform movement, recommended that divorce should be granted not only for physical misconduct but also for

- (1) Desertion for three years and upward,
- (2) Cruelty,
- (3) Incurable insanity after five years' confinement,
- (4) Habitual drunkenness, if found incurable after three years from the first order of separation, and
- (5) Imprisonment under a death sentence which has been commuted—in other words, if one of the parties to a marriage has been convicted of wilful murder.

Much might be written about each of these suggestions, but a few words will be enough. In Scotland, four years' desertion has been a ground for divorce since 1573 and in England desertion for two years is already a valid reason for the grant of a judicial separation. It can hardly be maintained that the desertion of his wife and family by a husband for a prolonged period does not break up the home nor destroy the family tie and if the period were fixed at three years it is

extremely unlikely that the family life would ever in actual practice be reformed and resumed. Divorce, on the other hand, would give the injured party what he or she does not at present possess: the right to contract a valid marriage and draw together the threads of a broken life with some prospect of happiness.

To those who demand that cruelty should be recognized as an additional cause for divorce the minority object that this is a vague and comprehensive word which may be stretched (and often already is) to cover ill treatment which is trivial and is only alleged in order to procure a divorce which is really desired for quite different reasons. Much, therefore, depends on the definition of the "cruelty," which should be sufficient in itself to entitle to a divorce, and it is accordingly suggested that

"Cruelty is such conduct by one married person to the other party to the marriage as makes it unsafe, having regard to the risk of life, limb or health, bodily or mental, for the latter to continue to live with the former."

The third additional ground proposed is incurable insanity, and as to this strong feeling has been aroused. The objection taken by the critics is largely based on the fear that the "incurably" insane may yet prove to be curable and that in any event insanity which is not the result of personal action (like drunkenness or desertion) should not be punished (so these critics would put it) by the breaking of the marriage bond. With regard to the first point, the evidence is that there would be virtually no danger, after a proper inquiry by the court, that a person declared incurably insane would recover. There are in the United Kingdom about 150,000 registered insane persons; of these from 60,000 to 70,000 are married and over 40,000 are regarded as incurable. So it is not, in point of numbers, a small problem. Now, according to medical evidence, of the insane who recover:

- 88.8 per cent recover within the first two years
- 9.1 per cent recover in from three to five years
- 1.6 per cent recover in from five to ten years
- .5 per cent recover in from eleven to twenty years.

But it is not proposed, all the same, to make it easy for one party to procure a divorce on the ground of the incurable insanity of the other. A decree will only be obtainable after certain stringent conditions have been fulfilled. First, the insane person must have been continuously confined as such, for five years. Second, it will be the duty of the King's Proctor to take legal measures to defend the interests of the insane person, showing evidence for instance that he or she ought not to be adjudged incurable. Third, the court will have power to order independent medical experts to inquire on its behalf into the insanity and it will charge the costs of this inquiry to the petitioner, unless it chooses to excuse them in the case of very poor persons. These and other safeguards ought to secure that injustice will not be done to the insane, while leaving the way open for a very great and, as most people think, a very necessary measure of relief.

But what of drunkenness? Everyone here admits that it is often destructive of everything that has moral value in marriage, but still the drunkard can and sometimes does reform and it must be admitted that sometimes a marriage which has been ruined by a drunken partner may yet be reknit if the drunkenness be cured. So we come back, to some extent, to a question of definition. Of what sort is that drunkenness which can be called "habitual" and by what criterion shall we declare it to be so far incurable, in all human probability, that the suffering partner in a marriage ought to be granted release?

It should be explained, first, that a separation order,

but not a divorce, can already be obtained in England for drunkenness. The idea of the reformers is that we still ought to begin with a separation order but that the state ought to recognize an obligation both on itself and the petitioning party to secure, if possible, the salvation of the drunkard. This in itself establishes a new and important principle in state responsibility.

To begin with, therefore, a wife (we will suppose) will ask for a separation order, but she will first have to furnish evidence that she has done what is possible to oppose and bring to an end the drunkenness of the husband. She may then secure a separation order for a period up to two years but not longer. During that time the court will have power to compel the drunkard to submit himself to treatment and control, as for instance in an inebriates' home, and the court can at its discretion defray the expenses of such treatment. If these measures prove effectual, the ground for a divorce, of course, collapses. If they do not, then a renewed application may be made to the courts and the treatment or detention may be extended for a further period which shall not be more than three years from the date of the original order. The drunkard still proving incapable of recovery, the court may then proceed to the final stage and grant a divorce.

It can hardly be said that this is "making divorce easy." The scheme involves a period of three years' habitual drunkenness and it compels both the petitioning party and the state to undertake remedial measures. Of course it cannot be asserted positively that a drunkard, having resisted for three years all efforts to cure him, might not by some strange chance or effort of will, accomplish his own recovery, but such cases would admittedly be very rare and in any event the critics forget that the final divorce is not imposed on the suffering party to the marriage but is only granted after long delays at his or her urgent request. If it be still alleged, as it is by some, that here and there a person might be found who, recovering from drunkenness too late, would yet make a good husband or wife, it is only just to recollect that many an unhappy wife and husband are even now divorced by their partners under the present law who, could they but have another chance, would atone for their offenses and perform their marital duties faithfully and well.

The last additional ground which is suggested for divorce does not need argument. When a man or woman has been convicted of wilful murder and the death sentence has been commuted to imprisonment for life it is contrary to humanity and sound morals to insist on keeping the partner tied to such a marriage. On the other hand, there is no compulsion on the partner to obtain divorce. It is only the right to freedom from an intolerable wrong that should be granted.

I do not know what impression these suggested reforms may make on American opinion, but I hope that they will not be thought a sign of growing laxity or of the decay of morals in England. It is not so. They are only an attempt to bring our marriage laws into agreement with broad principles of humanity and virtue and to protest against a formal tie being maintained where in fact no tie of any value, moral or religious, any longer exists. There is fierce opposition to almost all the suggestions recorded in this article, but it is the opposition of a minority, mainly composed of well-to-do and ecclesiastically minded persons. In the course of their arguments they allege that not only has there been great laxity in the divorce legislation of the United States but that its evil results have led to a strong reaction in favor of greater strictness. I do not know how far Americans would agree to this, but in any case it is not relevant to the position here. The reformers are content that each of their suggestions should be judged on its merits. Possibly some might be improved; some may be inadvisable. But they maintain that on the whole society would be happier and morality not less but more secure if these reforms were put into effect.

The only objections to summer are flies, mosquitoes, humidity, hot weather and summer resorts.

We all think there is but one perfect way—our own.

In these days of profiteering it seems that what goes up, stays up.

The double harness of matrimony won't hold for the trip unless there is a bridle on both tongues.

A man wants his son to be a better man than he; a woman wants her daughter to marry a richer man than she did.

A wise daughter makes a forgiving mother.

The human heart wears out, but never grows old.

Because we do not understand a thing we say it is not so.

If you have not laughed once in twenty-four hours, it is a day you haven't lived.

Virtue and love ought to be sisters.

How time flies with love! And how love flies, with time!

Who ever heard of a bachelor needing a rest cure?

The young woman today who wouldn't be bothered with children is the old woman of tomorrow who sits in the corner and weeps—alone.

Touching on Everything

By LEWIS ALLEN BROWNE

The man who has everything he wants generally has a lot of things belonging to someone else.

Nothing venture and you'll have nothing to regret. If you've nothing to regret, you've never had any fun.

A wife is like a car—it's the accessories that cost.

Patience and forgiveness are the shock absorbers of life.

Newspapers are unnecessary in heaven because there's no scandal there.

Many a four-flush wins a political pot.

The 150-pound matron walks with poise, but above that, it's avoidupois.

People who tell all they know do not do half the harm that those do who tell more than they know.

Matrimonial troubles are not caused so much by misunderstanding as by too much understanding.

Love makes the world go 'round, but there are no free passes—we have to pay for the trip.

Money is the dynamo of life, and we're frequently short-circuited.

Don't ignore the *nouveau riche*, study them and find out how they got it.

Work is the only real self-starter for man's journey to success.

Tomorrow's worries are largely overcome by performing well today's duties.

Pity the man who doesn't have to work—he doesn't know how to enjoy a rest.

The wise man doesn't try to make a lot of friends; he tries to keep a few.

All the world's a stage but the show would be a bigger hit if the stage hands would cut out so many strikes.

All egoists are blind, since they look only through their own "I's."

Man vows constancy, but can the wind guarantee to blow always from the south?

Perfection in humanity is like the fourth dimension—we haven't found it yet.

There's a pathetic paradox in the fact that we are no nearer heaven because living is higher.