

WIFE'S NEAR-KISSES IN HAMMOCK FAIL TO WIN HIM DECREE

Mrs. Winans's Lips "Very Near" to Guest's, Her Woman Friend Testifies.

LIVED BOHEMIAN LIFE.

Unconventionalities in Bungalow Not Sufficient Evidence for Divorce, Court Finds.

(Special to The Evening World.)

WHITE PLAINS, March 1.—Justice Tompkins in the Supreme Court today dismissed the action for a divorce brought by Irving R. Winans, an employee of the Custom House, against his wife, Jennie F. Winans, whom he charged with being too friendly with Arthur T. McCormack.

Incidentally, the trial brought out details of the Winanses' life in a bungalow during the summer of 1914 and 1915, and the testimony of Mrs. Suzanne Perennes, a friend of the defendant, who swore she saw Mrs. Winans sitting in a hammock on the porch of the Winans bungalow with McCormack, who, she said, had his arm around Mrs. Winans's neck.

In dismissing Mr. Winans's action, Justice Tompkins said:

"Everything that has been testified to in this case may be true, but under the circumstances and considering the fact that the evidence is insufficient to justify a verdict for the plaintiff, I think it would be very dangerous to give a decree on such evidence. They lived there in a sort of Bohemian style, where people do many things that are not conventional, but that does not mean guilt. The innocent inference must be drawn."

Mr. and Mrs. Winans were married Oct. 22, 1906, and have no children. Mr. McCormack, the correspondent, is employed by a New York casualty company.

Mrs. Perennes testified she was often at the Winans home, where McCormack was a boarder. She said they all frequently went bathing together, and that Mrs. Winans and McCormack would go home first in their bathing suits.

"Did you ever see them sitting in a hammock?" she was asked.

"Yes."

"Where was Mr. Winans?"

"He was either at my house or out walking."

"What did you see?"

"I saw Mr. McCormack have his arm around Mrs. Winans and they were very near each other. I am sure they had been kissing."

"Kissing? You must not guess," broke in Justice Tompkins. "Where was his head in reference to her lips?"

"Oh, very near, but I didn't see them kiss."

Mrs. Perennes also swore that one night she was walking by the Winans bungalow and saw McCormack in the defendant's room. She said Mr. Winans was visiting at the time three doors away.

Then the witness told about a canoe trip she had with Mrs. Winans and McCormack on the Sound. The canoe upset and the two women were rescued by a yacht, while McCormack was picked up by the boat. She said Mr. Winans was so worried about the safety of Mr. McCormack that she wouldn't take off her wet clothes until she was sure he was safe.

When they met, the witness declared, their eyes filled with tears. Mrs. Winans went to the hammock and denied all the charges. She admitted, however, McCormack often came into her room to comb his hair.

Who Owns the Child? Rights of Mother Gradually Force Recognition in Courts



Following Up-to-Date Shearn Decision Hopeful Women Ask for Laws That Will Make Marriage and Motherhood a Privilege and Not a Disability.

By Nixola Greeley-Smith.

Who owns the child? Justice Shearn created a sensation in legal circles on Monday by deciding that "the right of a mother to the custody of her children is at least equal to that of the father."

The Rev. Burton Lee, who had separated from his wife, taking his eight-year-old son and covenanting to let her have their younger boy, subsequently repented of his agreement and tried to induce Justice Shearn to allow him to keep both children, on the plea of his "paramount right as a father." He based his claim on a decision rendered in 1842 and on Blackstone, who declared that "the very being and legal existence of a woman is suspended during marriage, is consolidated in that of the husband." It was adjudged, therefore, that a man could not surrender his "paramount right by an agreement with his wife," since to "covenant with her would be only to covenant with himself."

"The world has moved since 1842," observed Justice Shearn in rendering his decision upsetting this view.

And so the world has moved, but not nearly as far as it must move and is going to move if the ownership of the child is to be determined justly.

Twelve States where Woman Suffrage prevails make the mother equal guardian of her children with the father. Ten non-Suffrage States have so-called equal guardianship laws, but in many of them, in New York and Pennsylvania, for instance, several little jokers in the statute make its pretension to grant equality farcical.

Under the present New York law the father has power to lay down conditions of education and religion which the mother does not possess, and in the exercise of this power he may send the child away from the mother to a sectarian school of his own choosing. Until recently in cases where the allegation of unfit guardianship was made, the child could be taken from the mother without notice, and it was necessary to give the father fifteen days' notice. Within the past year this injustice has been remedied as the result of a pamphlet written by Gilbert E. Roe, showing woman's legal disabilities in New York. There are to-day six Southern States where a father may will a child away from his wife. She has no more to say about the matter than if he were disposing of his old clothes.

Justice Shearn, in disposing of the paramount right claim, said that "the only basis for the father's alleged superior right is his obligation to support his children." This basis "disappears when one considers what the mother gives to her children in suffering, self-sacrifice and devotion," he added.

BIOLOGY AND LOVE FAVOR THE MOTHER.

The mother's superior contribution to the child is not limited to the abstract virtues enumerated by Justice Shearn, however. In his recent book, "Biology and Social Problems," George Howard Parker, Professor of Zoology in Harvard University, declares that the mother "contributes at the start \$5,000 as much as the father to the child. The material of the child's body is therefore vastly more maternal than paternal in the origin," he adds. The professor does not include in this estimate the nourishment contributed by the mother to her baby, both before and after its birth.

Nevertheless, Prof. Parker says that in any population as a whole children show about as much resemblance to the father as the mother; in other words, in inheritance the mother has no more influence than the father.

This biologist considers at length

EVERYTHING MOVES—EVEN THE LEGAL MIND.

BLACKSTONE IN 1768—"The very being and legal existence of the wife is suspended during marriage, or, at least, consolidated with that of her husband."

NEW YORK SUPREME COURT IN 1842—Barry vs. Morecin—"I deny that the father has the right to part with the custody of his children, even to his wife."

SHEARN IN 1916—"We have emerged from the Dark Ages, during which married women had the status of slaves and chattels. The right of a mother to the custody of her children is at least equal to that of the father."

GERMANY'S NOTE ON U-BOAT ISSUE NOT SATISFYING

No Action on It Until the Situation in Congress Is Cleared Up.

WASHINGTON, March 1.—Germany's latest assurances on the conduct of submarine warfare, presented Monday by Count von Bernstorff to Secretary Lansing, are not so broad as the United States desires, but it is indicated no further steps will be taken by this Government until the Administration is certain its action will not be embarrassed in Congress.

Officials were represented as feeling that if the German Government took the position that it could modify or change the first assurances at will, there was nothing to prevent an attempt to change the latest assurances and they do not intend to agree with such procedure.

It was said that the next step would be taken as soon as the situation in Congress was clarified. Officials expect the Administration will find itself in a position to continue the negotiations within the next few days.

RICH CHANCE IN CUBA.

Agricultural Engineer Can Get Rich in Ten Years.

The Havana, of the Ward Line, from Havanna, arrived here today. Count de Villafraanca, a Santa Clara plantation owner, who with the Countess were passengers, prophesied lasting prosperity for Cuba because of the reorganized sugar industry. The Count said that the present high prices of sugar guaranteed good times for Cuba for several years, but that the American capitalist, the Cuban Cane Sugar Corporation, through buying up one-third of the grinding mills on the island, had given assurance of prosperity for a long time to come.

He thought that the prospects were so good that the strikers' agricultural engineer who chose to go to the eastern end of the island in search of a career would be rich inside of ten years.

STETSON WORKERS STRIKE.

Nine Hundred Hat Makers Walk Out When Leader Is Discharged.

PHILADELPHIA, March 1.—The first strike at the John B. Stetson plant since 1892 was called today by men in the soft hat finishing department. According to the men, about 500 went out on strike. Seven hundred others are still working, but the strikers expect them to follow. The reason for the walkout was the discharge of one of the workers in that department. The strikers say he was dismissed because he was trying to "organize" the workers. Stetson's is a non-union shop and two meetings had been held for the purpose of joining the union.

The men say that while the discharge of the workman was the compelling reason for the strike they have other grievances.

Dentist Struck by Auto.

Dr. Joseph Biro, forty years old, a dentist, of No. 771 Third Avenue, was hit by an automobile driven by Fred Wolbers of No. 503 East Fifty-fifth street, at Fifth Street and Fifth Avenue today.

Only One "BROMO QUININE." To get the genuine, call for full name, LAXATIVE, BROMO QUININE, Leas for signature of GIBBY, Quin & Co., Inc., New York, N. Y.

BRIDE WHO KILLED MAN IS LEGALLY A MINOR; MAY ESCAPE PRISON

If Convicted There Is No Institution in Texas to Which She Can Be Committed.

FORT WORTH, Tex., March 1.—Katherine Harrison, the fifteen-year-old bride who confessed to the murder of W. L. Warren, aged boarding house proprietor, because he is alleged to have wronged her, is legally a minor.

This was stated today by Samuel Calloway, Assistant County Attorney, who is handling the case against Mrs. Harrison and her husband, Charles Harrison, twenty years old, before the County Grand Jury. Indictments are not expected for two or three days, at least.

Even if Mrs. Harrison is indicted, Calloway said, there is no institution in the State to which she could be committed if convicted. He declared this would not affect the case against her husband, however.

Eight witnesses have already been examined by the Grand Jury.

Among the facts in the case that are still unexplained is the sudden marriage of the girl and Charles Harrison within forty-eight hours after the murder. The Harrison family, it is now understood, have known of the killing of Warren for two months, and it is also rumored that the young husband's lips were sealed by command of his father. The Vance family, of which the bride was a member, knew nothing of the truth of the murder until Mrs. Harrison made her confession, and they too are now wondering whether the girl knows more than she has told.

Warren's relatives assert that Mrs. Harrison is eighteen, not fifteen years old, and the father and sister of the girl man declare they will not give up their fight for her conviction.

SWANN HELPS RECOVER STOLEN GOLDEN SILVER

District Attorney Gives Two Daughters of Mustard Manufacturer a Pleasant Surprise.

Charles Guiden, mustard manufacturer, of No. 59 Elizabeth Street, was summoned to the office of District Attorney Swann today.

"Bring your daughters Harriet and Florence with you," Mr. Guiden was told.

Upon their arrival, the three were escorted into Mr. Swann's private office. There a desk was covered with silver dining room articles, 116 pieces in all.

"Oh," exclaimed the two young women, "that's our property! How did you get it?"

"The thief who stole it told me where I could find it," replied the District Attorney.

The silverware, valued at \$50, was stolen from the Guiden home at No. 215 West Ninetieth street the night of Jan. 24. It was packed the next day for 395. Recently District Attorney Swann, working on another case, talked to the thief in the Tombs. The latter told where he had disposed of the Golden loot. In this way the silverware was recovered.

SEIGEL SET FREE; IS REARRESTED; TO BE TRIED AGAIN

Whitman Admits That He Had No Hope of Other Conviction on Same State of Facts.

HAS BUSINESS OFFERS.

Declares He Wants a Chance to Make Good and Settle With Creditors.

Both Gov. Whitman and former District Attorney Perkins, his successor, sent letters today to District Attorney Swann clearly stating that neither of them had entered into any stipulation or agreement with counsel regarding the subsequent prosecution of Henry Siegel, the banker-merchant who was released from Monroe County Penitentiary this morning after serving ten months for grand larceny in connection with his bank in the Fourteenth Street Store and immediately rearrested and released on a bond for \$25,000.

The letters were in answer to communications from Mr. Swann, who had heard that such agreement or stipulation had been made and sought information, as it is his opinion that Siegel has given his creditors a "raw deal."

It is Mr. Swann's intention to bring Siegel to trial again if this can be done without violating any legal understanding with Siegel or his counsel which might prevent a subsequent action.

Siegel was rearrested on a warrant sent to Rochester by District Attorney Wheeler of Livingston County, when Sheriff Root served the warrant. Siegel furnished the bond and took the train from Rochester for Geneva, where, he said, he intended remaining for some time.

In his letter to Mr. Swann Mr. Perkins said he told counsel for Siegel at the time the merchant-banker began serving his sentence, "that it was at that time my opinion that in the event the defendant took no appeal and served his term of imprisonment, I should not move either to bring him to trial or to any indictments upon any of the other matters which were known to the prosecution at that time the pending indictments were filed."

Mr. Perkins's letter went on to say that he "further stated to defendant's counsel that I did not make this statement as a stipulation or agreement, but only as an expression of my then personal opinion, which opinion might thereafter change."

"I may add that I never did change it or see any reason for changing it," in his letter Gov. Whitman wrote.

"Of course you understand that no District Attorney can stipulate that grand juries will not indict, and there was no stipulation or agreement of any kind that subsequent grand juries might not indict this defendant, but I think that it was clearly understood, although I don't recall that there was any written stipulation that all of the facts having been presented to a jury and a judgment of a court having been given, that the District Attorney would not proceed to try another one of the indictments of practically the same state of facts."

"Of course I know nothing about any subsequent arrangements, but I am willing to assume entire responsibility in the matter, although, of course, I realize that it is for you to decide what procedure you desire to adopt. I myself did not feel warranted, in the light of all the circumstances, in proceeding again under the terms of the indictments."

Cushion of Eggs Saves Child's Life. Samuel Cahar, three years old, fell from a fourth-story window of his home, No. 35 Hester Street, today and landed in a case of eggs, which broke the force of the fall and probably saved the child's life. He was taken to Gouverneur Hospital, suffering from a fractured leg. The eggs were rendered fit only for scrambling.

BEGGED FOR WIFE ON KNEES BEFORE HIS RIVAL, HE SAYS

Eckel, in \$100,000 Suit, Says Vaudeville Man Helped Cause Her Suicide.

The reasons which drove Clara Inge, a vaudeville actress, to take her own life, Dec. 12 last, leaving a four-year-old son and a husband, Charles E. Eckel, an automobile tire manufacturer, were explained today in a suit for \$100,000 damages filed in the Supreme Court by Eckel against Max Hart, a vaudeville producer.

Eckel alleges Hart not only alienated his wife's affections, but by constantly threatening to kill her if she left him, brought about a state of mind which led to her suicide in an apartment at No. 305 West Fifth Street, rented and occupied, Eckel alleges, by Hart.

Although Eckel pleaded with Hart to let Mrs. Eckel return to her home and family, she found herself completely under Hart's control, the complaint alleges. Half a dozen times, Hart begged him on his knees, "as a man," the complaint recites, to let Mrs. Eckel return to her son.

Hart's reply, it is charged, was: "Well, if she does I will kill her."

Eckel gave up begging, he says, and again called on Hart and warned him, "man to man," to keep away from his "easily influenced wife."

Again Hart replied that if she left him she would be killed. Eckel says he pointed out the injustice of Hart's attitude and selfishness and explained the need of the son for his mother's attention. In pleading, Eckel alleges, were unheeded. Eckel says his wife was willing to return to him, but was forced by the mysterious control art exercised to remain with him.

"Finally," Eckel says in his complaint, "my wife's condition was desperate. In a highly excited state of mind and with intent and purpose to free herself from Hart's control and influence, my wife caused her death by her own hand."

Eckel married Clara Inge in St. Joseph, Mich., in 1911. Two years later she became a star in one of Hart's tabloid musical productions in vaudeville. She was known as the "Holy Doll" and spoken of frequently as one of the prettiest women on the vaudeville stage.

"The action was served upon Hart, Feb. 4. Every effort was made to prevent the matter becoming public."

BILL CARRIES WILSON'S PLANS FOR MILITARY TRAINING OF BOYS

WASHINGTON, March 1.—What the President wants in the way of military training for boys is said by his author to be embodied in a bill drafted today by Senator Owen of Oklahoma. The author is State Senator Kent E. Keller of Illinois. He has had three conferences with President Wilson on the subject.

Boys between the ages of fifteen and eighteen years to enlist for three years' service; fifty volunteers from each Congressional district yearly; qualifications, good health and morals; no educational test for admission; applicants not appointive; class leaders graduate into West Point without further examination.

Students to receive three hours' daily military instruction; three months' yearly to be spent in central mobilization camp, with regular army officers in charge.

Graduates would be under reserve for twenty years for army service upon call.

Discharging Fears, Deafness, When Mr. Edward J. Dunn first consulted me he said: "I caught cold five years ago, and the cold settled in my ears. I had a hearing aid, but it did not do any good. I was told that I would never hear again, but I am now hearing again."

Dr. J. C. McCoy, Candler Building, 220 W. 42d St. Hours: Monday, Wednesday and Friday, 10 A. M. to 6 P. M. Tuesday, Thursday and Saturday, 10 A. M. to 5 P. M.

PRESIDENT DISCUSSES SEIZURE OF MAILS

Formal Complaint to British on the Protest Made by Ambassador Van Dyke.

WASHINGTON, March 1.—Seizures of American mails by British naval authorities were discussed at a conference today between President Wilson and Henry Van Dyke, American Minister to the Netherlands, who also conferred with Secretary Lansing and Counselor Felt of the State Department.

It is indicated that the mail question will be disposed of before the United States sends to Great Britain the note on contraband, now in course of construction.

The United States, it is understood, has made formal complaint to Mr. Van Dyke's informal protest against the seizure of mail from the steamer Rotterdam, on which he came to the United States.

7 Visits for \$5

The reasons why many people suffering from cataracts are unable to see are that they cannot afford to receive proper treatment often.

The offer of the nominal fee of \$5 to all patients who come to the clinic for treatment is a great opportunity for those who require treatment for cataracts. The treatment is a simple operation and will be performed in the clinic. The fee includes all necessary treatment and supplies. In order to take advantage of this low offer, it will be necessary to call the office and enroll your name on or before March 15th.

This is who I am and what I have done: I graduated in medicine in New York in 1910. I was the first to introduce the new method of cataract operation in the United States. I have operated on thousands of patients and have never had a failure. I have been in the United States for several years and have a large number of patients. I am now in New York at the New York Hospital, where I have a special clinic for cataracts. I am now in New York at the New York Hospital, where I have a special clinic for cataracts.

Clogged Nostrils, Dropping in Throat, Deafness and Head Noises

Mr. Robert Allen resides at No. 234 Third Avenue, New York. When he first consulted me he said: "My nostrils have been clogged for several years. I have had a hearing aid, but it did not do any good. I was told that I would never hear again, but I am now hearing again."

Dr. J. C. McCoy, Candler Building, 220 W. 42d St. Hours: Monday, Wednesday and Friday, 10 A. M. to 6 P. M. Tuesday, Thursday and Saturday, 10 A. M. to 5 P. M.

ARE YOU GOING DEAF?

Deafness and Head Noises. When Mr. Edward J. Dunn first consulted me he said: "I caught cold five years ago, and the cold settled in my ears. I had a hearing aid, but it did not do any good. I was told that I would never hear again, but I am now hearing again."

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Poslam puts a stop to itching at once, and its soothing in healing small surfaces is evidence of its rapid action in the eradication of All Eczemas, Acne, Tetter, Salt Rheum, Barber's Itch, Scalp Scabies; in short, every surface skin affection. So exhaustively has the merit of Poslam been proven and so uniform is its work of healing under all conditions, that no one suffering any Skin Trouble can afford to ignore its benefits.

Poslam Soap Hair. Superior for daily use; Toilet, Bath, Shampooing.

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