

# Will Prohibition Reduce the Number of Divorces?

## Two Prominent Judges So Declare, While Another Says Frankly He Will "Have to Be Shown" and Will Watch Future Figures.

THERE are too many divorces. That sounds like saying there is too much crime. Any crime is too much, and there are many who believe that any considerable number of divorces is too much, though some think there should be even proclaimed that there should be more.

Nineteen hundred and forty-one divorce decrees were granted by four judges in the courts of one great city in the last court year which ended July 1. The judges who granted most of them believe the number was too large, and they gave their opinions, in reply to inquiries, as to the means which might lessen the number of divorce decrees.

### Prohibition to Be Factor.

Two of the judges believe that the number of divorce suits, and hence the number of divorces granted, will become fewer from now on, because of prohibition. One says he has formed no conclusion as to this matter, but will watch the future figures with interest.

"People are likely to say this or that judge is too liberal in granting divorces," says another, "but the judge has very little option in the matter. The Supreme Court has held that when the necessary legal requirements

"Even if the Judge has reason to believe that the person intends to marry again, that is no business of his. I have seen persons go from the courthouse to the marriage license office, not even waiting for the four days in which, under the court rules, a motion for a setting aside of the divorce decree could be filed.

"The judge may know that another marriage is intended, but he does not know but the new marriage will be a happy one. There is not much to do in an uncontested case but to grant the decree.

"In handling contested cases, I think there could be an improvement. The contested case is the case in which there is sometimes a possibility of reconciliation. Our divorce laws, as I believe, should be aimed to lessen the number of separations, and I think that here is where they might begin.

"Instead of leaving the contested divorce cases to come up before a judge

## The First Misunderstanding



brought by wives whose husbands had been discharged from the army, but had not come home to them.

"Negroes have been in the divorce courts more frequently than they used to be. This shows that they are taking the marriage relation more seriously. However, a good deal of the testimony is like that of the negroes whom Walter Kelly, the Virginia judge, tells about. 'Did he beat you?' the judge asked. 'He better not beat me,' the muscular plaintiff replied. 'Did he support you?' 'Oh, yes, he done give me a dollar and a quarter last week.' Then why do you want a divorce? 'Well, judge, I just natchally lost my taste for that nigger.'

"One negroes who got a divorce in my court said that her separation from her husband occurred after he had said, on departing from the house one morning: 'Nigger, when I comes back here tonight, you all better not be here.' She said she didn't care to take a chance on finding out what he meant.

### Case of a Cautious Negroes.

"As I have said, I think there can be better means of handling some cases, and I think there will be less non-support and fewer quarrels with the factor of drink removed. But so long as human nature is what it is, the divorce courts are not going to be idle. One judge, in the past year, while granting 563 divorce decrees, has denied 53. The 596 divorce cases on his docket have been about three-fourths of the total number of suits of all kinds that he has heard, that total being 798.

His conclusion, from this year's experience on the divorce bench, has convinced him that new laws are needed, not so much for divorce as for marriage.

"I think my experience in these cases has tended to broaden and liberalize me," he said. "I am not an advocate of easy divorces, but I have changed my former opinion, which was that the number of divorces should be decreased by new requirements and restrictions.

"But after a year's experience in hearing the stories of misery that are related in the divorce court, I feel that I would not make the statutes more stringent or their construction stricter.

### Where the Real Problem Lies.

"No one without prejudice or preconceived notions could hear the stories that these divorce seekers relate, and still believe that they should be required to go on in such conditions. Neither the good of the individual nor that of society requires that they should.

"There are too many separations of couples, but the cause does not lie in the statutes. It lies in haste, ignorance and false ideas in assuming the marriage relation.

"The uniform laws we need are for marriage more than for divorce. There should be provisions, in all states, to make marriage more difficult, and to prevent sudden and unconsidered marriages. Marriages made in haste and without sufficient acquaintance, are more likely to lead to the divorce court than marriages in which time has been taken.

"The fact that, in more than 50 per cent of divorce cases there are no children, shown that the marriage relation has not been understood, or has been perverted.

"The most hotly contested cases are usually those involving the custody of children. This speaks more favorably for the parents than would a case in which the child's interest was not regarded. In cases where alimony is to be shared by a wife and child, the husband sometimes shows a greater willingness to pay for the child than for the wife. One man, with a judgment for \$100 a month alimony against him, was willing to give security for the payment of the \$40 that was to go to the child, but would not give security for the payment of the wife's \$60.

"I try to believe a witness when I can, even when his or her interest is involved in the testimony. But sometimes there are conflicts and discrepancies which the witness is not smooth enough to cover up. Sometimes the Judge, although having no concrete reason for holding up a decision, feels that he is being imposed upon. Sometimes he learns, too late, that he has been imposed upon.

"Collusion is often strongly suggested, when there is no tangible evidence of it. The 33 cases where I denied decrees were cases in which there was tangible reason to believe that there was fraud or collusion.

### The Remarriage Problem.

"Often it appears likely that the person who is seeking a divorce plans to marry again immediately. In cases where a suit is contested, and the defendant knows something of the plan for another marriage, it is possible for a judge to hold up the proceedings.

"The Illinois rule of a one-year interim between divorce and a new marriage is of little value unless it should be made a uniform rule in other states

## Suggestion Is Made That Features of Illinois Law Requiring Interim of One Year Before Remarriage Should Be Made General.

as well. The marriage laws, in my opinion, need attention first.

"The publication of bans for marriage ceremonies should be required, and there should also be a public filing of applications for a license to marry, and in the case of the young, a requirement that the parent or guardian be notified of the application. Publicity is the best remedy for hasty marriages."

"Our divorce law needs certain changes," another judge said. "My experience has made me believe in a liberal divorce law, liberally administered. Too great strictness tends to produce immorality. But divorces must not be lightly granted.

"It is very clear to a judge, in many cases, that the divorce is being sought merely in order to permit a new marriage. Some infatuation has arisen, and the troubles which have arisen between husband and wife are magnified into grounds for divorce, for the purpose of a new marriage, which usually is not likely to be more happy than the first one.

"It would be better, in my opinion, if people knew that they could not come into court and get a divorce at

### Desertion Most Frequent Charge.

"Several war cases have come before me. In some of these the marriage took place before the man went away, possibly with a view to the allotment which a soldier's wife gets. Then the husband, returning, found things in bad shape. In one case, a soldier returning on a furlough found that his wife was out of the city, in company with another man. In one case, an officer, living in Texas and on his way East, was overtaken by his wife here and served with papers.

"I have not tried to make a record of speed in handling cases, but in un-



### REMOUSE.

10 o'clock and go out and be married again at 11.

"At present the only thing a judge can do, when the indication of an intended marriage is plain, is to delay a case arbitrarily. I held up one case two months.

"The law should also be changed in those states the rule does not now obtain, so as to permit the hearing of certain divorce testimony in private. This is not so much for the sake of the litigants as for the sake of the public. No public good is served by the recital of the testimony in some divorce cases, before big audiences. Then, too, there are children to be considered. They are sometimes necessarily in court in divorce proceedings, and they should not hear some of the things which are said about their parents. At present a judge can send the children from the courtroom arbitrarily, but this makes a bad impression.

"A law permitting the Judge to hear testimony in private would appear, perhaps, to favor the rich, because its use would attract most attention in the cases of wealthy or conspicuous persons. But it would be used in the cases of poor and obscure people also.

"The judge in divorce cases has a good opportunity to see how difficult it is for people to tell the truth, when their own interests are involved. He comes to feel that in nearly all cases the truth is being colored, if not deliberately misstated. Cases where the plaintiff in a divorce suit appears to be trying to give the defendant a square deal, and to be 'on the level' with the court, come so seldom as to attract notice.

"Sometimes the testimony contradicts itself, or is at variance with the known facts. Most of the time the judge has to do the best he can at sep-

arating the wheat from the chaff.

"Desertion is the most frequent charge. Sometimes this means simply that the husband, or not so often the wife, has picked up and left. But in many cases there are other causes in the background, and these come out in connection with the story of desertion. Sometimes cases are brought on other grounds, and it seems best, after getting an idea of the evidence, to deny the decree on other grounds and grant it on the ground of desertion.



### THE VICTIM OF IT ALL

are compiled with and the necessary facts shown, the plaintiff is entitled to a divorce, and the judge has no right to deny a decree.

"So a judge has to go through with the cases that are sent to him and make the best use that he can of his sense of humor, to keep his nerves from giving way under the strain of what he has to listen to. I have found it a good plan not to hear too many divorce cases at once, but to intersperse groups of divorce cases with civil suits.

"It is a Judge's business, in handling divorce cases, to keep his record clean, and make sure that all the requirements are complied with. Some judges, in past years, have thought it necessary to go outside of this, and to make special efforts to lessen the number of decrees granted. It never appeared that they accomplished much.

### Difficult to Check Evil.

"For instance, one judge used to object to hearing uncontested cases, which largely outnumber the contested cases. When it was reported that the defendant did not answer, he would ask why the defendant did not answer, and would send out after the defendant, usually a husband.

"This made a lot of work, and the result was usually that the man would fail to appear in court, or that he would come in and say he had nothing to say as to the divorce. That would leave the judge just where he was before.

"Of course, a judge knows that most of the testimony he hears is strongly colored, and he suspects that some of it is untrue. But when a case is uncontested, about all he can do is to accept the sworn statement of the plaintiff, unless it contradicts facts known to him.

in their regular order, such cases should be placed in the hands of a referee, constituted by law, who should be privileged to take his time in reaching a decision, and who would be expected to do anything that might be possible toward a reconciliation. He would finally make a report and recommendation to the court.

"At present a judge can postpone a decision by arbitrary action, but he can not give the time to inquiry, and to attempts at reconciliation, that a referee could give.

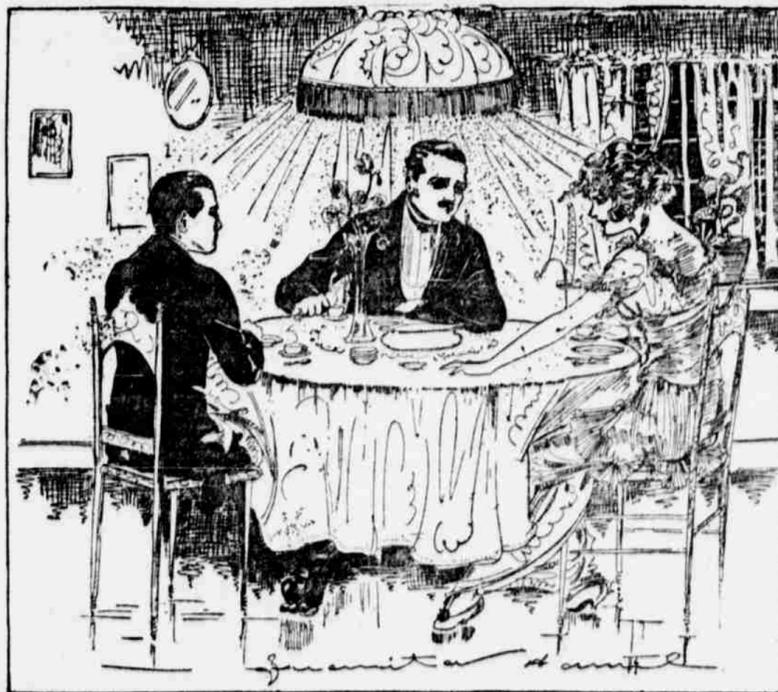
### Referees for Contested Cases.

"In cases where it has been necessary, because of evidence relating to a mother's conduct, to award a child or children to the custody of the father, I have always entered in the decree a reservation stating that the mother shall be permitted to see the child at any reasonable time. I believe that the mother has this right, no matter what she may have done, and that such visits may help her and will not harm the child.

"Some interesting cases growing out of the war have come before me. In most of them, soldiers were plaintiffs. They have shown misconduct of their wives in their absence. One man suspected that things at home were wrong, and got an admission from his wife, in a letter, that she had received the attentions of other men. He was on his way home from France, with this letter in his baggage, when the ship was sunk by a submarine, and he was in the water several hours, losing his baggage and escaping with his life. When he got here he explained the absence of the letter he had intended to use as evidence, and he was able to make his case on evidence of witnesses who knew about his wife's behavior.

"Some cases lately have been

## The Eternal Triangle



contested cases, where the forms are shown to have been complied with, there is not much occasion for delay, and I have handled as many as 21 such cases in two hours. I have had to set aside only one decree on grounds of fraud."

### SOME OF THE INDIGNITIES.

INDIGNITIES alleged by wives in petitions for divorce included among the decrees granted in the last fiscal year covered a variety of offenses.

One plaintiff included among her allegations of humiliation suffered, that her husband refused to sit with her in church.

Another charged that her husband, who was a Lieutenant in the Dental Corps, U. S. A., squandered all his money gambling.

One wife charged that her husband spent his evenings with his mother and sister, "rushing the beer can."

Another charged her husband with teaching the baby to drink beer.

One husband was accused of cursing his wife because she gave her daughter, by a former marriage, a pint of molasses.

A score of wives charged that their husbands contracted diseases. One woman charged, among other humiliations, that her husband refused to build the fires and told her if she was cold "there is the stove and the coal."

One husband appeared as plaintiff alleging indignities in that his wife accused him of flirting with his stenographer, his neighbors and various other women; accused him of flirting with every woman he passed while they were motoring, and telephoned his doctor to examine him for insanity, as she believed he was going crazy over women.