

RADICAL CHANGES IN MARRIAGE AND DIVORCE LAWS OF STATE ARE URGED

Judge Davis in Report to Supreme Court, Declares Ada County Has Highest Divorce Average in the Country

FROM JUDGE DAVIS' REPORT.

"In this county the proportion of divorces to the number of marriages is twice as great as for the United States as a whole."

"From Jan. 1, 1911, to Nov. 22, 1912, there was filed one petition for divorce to every four applications for marriage licenses and there has been awarded five decrees of divorce to every 26 marriages during that time."

"Some earnest attempt must be made to lessen the terrible causes that lead to such direful results."

"During the period mentioned there were 183 decrees of divorce granted, rendering practically homeless hundreds of children and the amount of misery and agony endured as a result of the unhappiness in these cases is tremendous."

"It is clearly apparent that sexual depravity, ignorance, selfishness, vanity, poverty, extravagance, intemperance and immorality are the leading causes but the greatest of these is a gross abuse, instead of a moral proper use of the sex functions. This leads directly to nervous irritation, disgust, cruelty and divorce."

"More stringent marriage and divorce laws are recommended. Minors should not be permitted to marry under any circumstances even with the consent of the parents. Education in sex hygiene should be given in the public schools and children should be taught those things that will make happy and contented homes and families."

"The banking laws of the state should be changed so as to allow the court to appoint the receiver of defunct banks instead of allowing that function to be exercised by the state bank examiner."

"A speed limit for vehicles should be established for the county highways and a heavy penalty should be provided for its violation."

"Minor changes should be made in other laws to permit the easier working of the courts."

Specific changes in the marriage and divorce laws to cut down the number of wrecked and unhappy lives whose misery is laid bare in a divorce court are recommended by Carl A. Davis, district judge, in an official report to the supreme court of this state.

The judge goes into all of the facts that are revealed by the records of his court for the last few years and explains to the justices of the state's highest tribunal the reasons for the large numbers of unhappy families that are to be found in this county and in this state.

The study of the conditions that are revealed by the records of the district court shows some startling and sensational facts and indicates, to a certain extent, the amount of misery in Idaho caused by unhappy marriages. The judge finds that the lack of information upon sex matters is the prime cause for the greatest share of this unhappiness in the family relationship and he recommends that steps be taken to educate the children of the state in such a way that they will understand the most important questions of sex hygiene.

He shows that Ada county has the highest divorce record of any place in the United States. He mentions that a large part of this is due to the immigration of many persons to this city from eastern points for the sole purpose of securing a divorce under the lax laws of this state but he calls attention to the fact that many of them are also natives or residents of Idaho who cannot find happiness and contentment in the marriage that they have contracted.

Biggest of All Questions.

He feels that this question is one of the biggest one before the people of this state. He believes that the people of Idaho should produce the best children, should give to posterity the best that the present generation can give and he cannot see how such a thing may be done under conditions as they now exist. The question of divorce is one that is close to the heart of the district judge. The duties of his office require him to examine the family lives of dozens as they come into his court and lay bare the secrets of their relationship.

He does not approve of the marriage of minors under any circumstances and believes that, as the law does not permit them to enter into any other contract until they are of age, they

should not be allowed to go into the most important contract of their lives until they have reached the age of maturity and discretion.

He asks for a law that will prohibit the marriage of persons who are idiotic, insane or degenerate or who live in any form a communicable disease. He thinks that \$5000 should be appropriated for the education of the people of the state along lines of sex hygiene, especially parents and educators that they, in turn may pass this information on to their children.

The court also believes that the children of the public schools should be given training in those things that will make for home building, that the dead languages and sciences should give place, especially in the case of girls, to studies that will enable them to create happy and contented homes.

He also supports the contention of the depositors of the Boise State bank that some one else should be appointed receiver of defunct institutions other than the state bank examiner. He asks for a law that will specifically enable corporations to be brought into court, that the county commissioners be enabled to draw a larger number of names of jurors, especially in Ada county, and other minor changes.

Judge Davis' Report.

His report and recommendations follow:

"To the Supreme Court of the State of Idaho, Hon. George H. Stewart, Chief Justice, Hon. Isaac N. Sullivan, Justice, Hon. James F. Allshie, Justice.

Men: In compliance with section 25 of article V of the constitution of Idaho, I hereby report the following defects and omissions in the laws of this state, according to my judgment and experience to-wit:

"That some specific method should be provided for bringing a corporation into court upon the filing of an indictment or information charging it with a criminal offense.

"That a motion to strike be made a pleading and an appearance in an action, and that sections 4162 and 4592 of the revised codes be amended to provide therefor.

"That section 424 be amended or repealed, as of doubtful constitutionality, and of no practical efficiency, since it is ordinarily impossible for a plaintiff to secure a judgment in the district court within 60 days.

"That upon the death of either hus-

band or wife the entire community property shall go to the survivor, subject to the community debts and of the right of testamentary disposition of one-half thereof by the deceased person.

"That a maximum speed limit be established for automobiles and motorcycles on public highways and that a severe penalty be provided for exceeding such limit.

"That at their first regular meeting each year county commissioners be authorized to select not less than 100 and not more than 400 names of citizens with qualifications of jurors, instead of 150 as at present, to serve as jurors for the ensuing year, amending section 3945 of the revised codes.

"In many small counties it is unnecessary to have 150 names, and they are difficult of selection with the proper qualifications, but in Ada and other counties where two judges preside, and especially where important cases of great public interest are pending, more names should be available in order to avoid the necessity of calling jurors on a special venire, which is sometimes unsatisfactory, no matter how conscientious the sheriff may be.

Change in Banking Laws.

"That sections 72, 73 and 74 of chapter 124 of the session laws of 1911, authorizing the state bank examiner to wind up the business of insolvent banks, be amended so as to restore to district courts the power of appointing the best qualified persons as receivers of such institutions.

"It is imposing too great a burden upon the state and its bank commissioner to require the manifold duties of winding up the affairs of insolvent banks to be performed by a state officer, and his duties as an inspector are in a measure inconsistent with those of a receiver. The result is that a deputy appointed by the commissioner usually performs the actual work, although not under bond and possibly not acquainted with the business of the bank or the best manner of conserving its assets.

"The principal duty of a state bank commissioner is to protect depositors and stockholders from loss through the operations of avaricious or incompetent bank officials and to enforce a compliance with the banking law.

"After the bank commissioner has closed a bank that is insolvent he has removed the control of its affairs from the hands of its officers and it should be placed in the management of some one acquainted with the debtors and the best method of collecting and settling claims. And since the bank commissioner must travel constantly in the discharge of his other duties, he cannot personally or diligently attend to the business of insolvent banks in different places in the state.

"And as far as I have observed the operation of the law it is very unsatisfactory.

The Marriage Law.

"That more stringent laws be enacted concerning the marriage relations, in order that the unhappiness which so often results in divorce may be prevented insofar as possible. And I am of the opinion that there would be greater probability that marriages would be successful and happy, and less likelihood of divorce, if the following provisions were enacted into law:

"That the minimum age for marriage be increased to not less than 18 for women and 21 for men.

"That the method of education of our children be modified to the extent of preparing them for practical home-building before teaching them dead languages, and other less necessary subjects, important for higher training perhaps, but almost useless to the average person.

"That the marriage of idiotic, insane and certain degenerate and diseased persons be prohibited.

"That a marriage license shall be issued only after at least a 10-days' notice of intention to apply therefor.

"That at least \$5000 be appropriated for the use of the state board of health in the dissemination of knowledge among parents and educators relative to sex hygiene.

Period of Residence.

"That the period of residence required before a complaint for divorce can be filed shall be increased to one year where the cause of action arises outside of Idaho, but where the cause of action arises within this state prompt relief should be afforded to the wronged party without any requirement as to time of residence.

"Ordinarily the affection and respect that induces marriage is not destroyed and the ordeal of an action in court for divorce undertaken without some reason and considerable grief. And yet in Ada county from Jan. 1, 1911, until Nov. 22, 1912, there was filed one petition for divorce to every four applications for marriage licenses, and there has been awarded five decrees of divorce to every 26 marriages during that time.

"This is a very unsatisfactory proportion. And yet in every instance the evidence produced at the trial established statutory grounds that justified a decree, and in many cases most dreadful immorality, cruelty and depravity was clearly proven. Some earnest attempt must be made to lessen the terrible causes that lead to such direful results.

"In this county the proportion of divorces to the number of marriages is twice as great as for the United States as a whole. And while it should be borne in mind that many applicants for divorce in this county have never resided here at all, but come from small counties where court is rarely in session, and many are migratory residents, here for only a few months and then gone, still a large percentage of decrees are given to actual, bona fide residents of Ada county, and the number of homes destroyed by the separation of husband and wife and the scattering of the children is a very serious matter. Whatever remedies may be available should be applied promptly.

Results of Divorces.

"During the period mentioned there were 183 decrees of divorce granted, rendering practically homeless hundreds of children, and the amount of misery and agony endured as a result of the unhappiness in these cases is tremendous. A large percentage of dependent and delinquent children come from this class, and the state or county or charitable people must bear the bur-

(Continued on Page Six)

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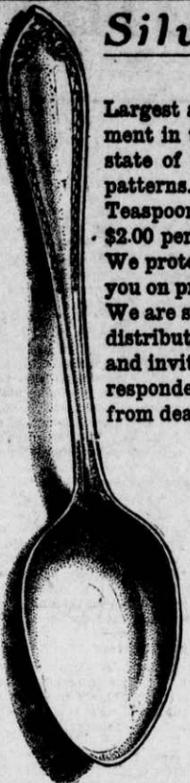
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