

FUNNY CUSTOMS IN ENGLISH LAWYERS; PRACTICES IN THE COURTS

Divorces Are to Be Obtained Only in London; How Clients Must Pay Double and Triple Fees for Legal Services



EXTERIOR OF FAMOUS ENGLISH DIVORCE COURT



EXTERIOR OF ENGLISH ROYAL COURTS OF JUSTICE

By E. Lisle Snell.

DIVORCES and how to get them—cheap—is the topic of the hour in England. A Royal Divorce Commission has been "sitting" on the subject, and the legal fraternity who have made divorces such an expensive commodity have also been severely "sat on" during the course of this searching investigation.

One member of the bar, however, maintained before the Royal Commissioners that man and woman should never be separated except at great cost in law. He gave as his reason the curious one that Mr. Adam and Mrs. Eve were joined together in Paradise "for better or worse," and, as no law courts existed in those days, Eve had to stand for Adam no matter how foolish he behaved. But the lawyer forgot that Eve was just then the "loneliest" woman on the scene. Things might have been different had there been any co-respondents floating about wearing diaphanous gowns in a jaunty fashion.

Seriously, divorce in England is, from the legal point of view, one of the most expensive luxuries. It seldom costs less than \$500 to obtain legal severance of the nuptial knot, and, at times, the expense runs into thousands of dollars. Naturally the lawyers get all these fat fees, and an effort is being made by several special philanthropic societies towards cheapening legal separation and putting conjugal unhappiness on the market at a much lower figure than the present quotations.

"senior." The junior counsel prepares the evidence after receiving his brief from the solicitor and attends to all the preliminaries, such as drawing the writs, summonses, statements of claim, and other important documents. The senior, or "K. C.," remains in the background until within a day or so of the trial, when all the papers are handed to him by the junior, and the great man is hastily "coached" by the junior as to the merits of the case.

In England it frequently happens that a client does not see his counsel at all; but only deals through the solicitor. Some barristers are very averse to seeing such minute atoms as mere clients. This "faraway-Moses" attitude is supposed greatly to add to the fictional dignity of the law. Now and then a barrister, at least a junior, will interview the client; but he treats the latter as a species of reptilian interloper and "lags down the law" in a highly important and often egregiously bombastic manner. The client's main function is simply to pay the costs.

As barristers have no right to sue in law for their fees, they take mighty good care to see that they get the cash before they go into court. Frequently a case goes right up to the day of trial and the harassed client has not been able to "dig up" the money. The barrister thereupon grandiloquently "retires" and the poor client has to "conduct" his own case. Every one in England is entitled to do this; but it is only a theoretical privilege, as the Judge looks upon the client, under such circumstances as a deluded creature, who presumes to know more about the law than his lawyer. There is an axiom at law that "a man who pleads his own case has no fool for his client," and the Judge shows him scant courtesy. Several Judges, however—particularly the Chief Justice, Lord Alverstone—show the greatest kindness and consideration to poor clients who have to bring in their own cases; and, not infrequently, he permits them—owing to their very ignorance of the law—to make points and introduce evidence

According to English law, a woman has to be well-nigh murdered by her husband before she can seek redress in the courts. The divorce law, as it stands today, is a strictly man-made institution, going back to the times when woman was virtually a chattel slave. English law and lawyers seem specially fitted for keeping up this ancient fiction, and when an aggrieved or aggravated party seeks redress—particularly a woman—ancient practices and enormous fees bar the way and make the obtaining of relief almost impossible. It was stated before the Divorce Commission recently that in England alone, to say nothing of Scotland and Wales, upwards of 20,000 couples are living the proverbial "cat and dog" life simply because they cannot put into operation the antiquated and costly machinery of the law.

The Divorce Commission has brought out one fact worth noting—that the law is still, as Charles Dickens designated it years ago, "an ass." Its forms and formularies, "quips and quiddities," are still as absurd, in many respects, as they were in the time of Shakespeare, whose memorable censure on "the law's delays" seems to have had little effect. It is true justice may still be obtained, but it comes high, and really amounts to this—only the rich may buy it. There are, it is true, a few "poor man's lawyers" in England, who do their best to keep down the costs of an action, but they devote most of their energies to advising their clients to "settle," and pointing out the ruinous costs of legal proceedings.



LORD CHANCELLOR OF ENGLAND ON HIS WAY TO HOUSE OF LORDS ON OPENING OF PARLIAMENT

Speaking of the queer practices today employed in English courts of law reminds me of a very curious affair that took place in the Middlesex County Court only a few days ago. A barrister came into court without his wig and gown, and when the learned man arose to address the court he was pointedly remarked: "I seem to recognize the voice, but I cannot see who is speaking."

The eminent English judge who uttered these words was staring straight at this distinguished English barrister, whose anatomical features were so prominent that he rendered him a conspicuous object wherever he goes.

Flushing scarlet the big barrister strode to the front of the court, and, after he returned and started to address "My lud" again.

"Ah," said the judge, "I am glad to say that now I not only recognize your voice but I can also see you distinctly."

The wonderful improvement in the judge's eyesight was due to the fact that in the interval the barrister had donned a mistle wig and a gown much too small for him, which he had succeeded in borrowing from a pompous, stethic colleague. In his haste to catch a train he had forgotten the bag containing his own wig and gown, and by rising to address the court without them had been guilty of a most shocking breach of English legal decorum. For, technically, English law holds that dispensing justice "cannot see" a barrister unless he wear a horsehair headgear and a black gown.

But there is a substantial reason for investing the legal wig and gown with such tremendous fictitious dignity. It helps sustain that greatest absurdity of the English legal system which compels a client who is unfortunate enough to get tangled up with the higher courts to pay two lawyers and even three to do one lawyer's work, which, from the point of view of the lawyers themselves is such a very good thing that every effort should be made to fool the public into believing it is a necessity.

which a responsible barrister would be excluded from doing. As mere counsellors to the Judge, and having nothing to do with the vulgar public—otherwise clients—they are supposed to be quite above feeling particular interest personally in any case. They give the Judge their "honest" opinion from an altogether altruistic standpoint. It is this curious way of regarding their high calling that prevents them from claiming their fees in case they do not get them before-hand from their client, which, it is scarcely necessary to remark, is an unknown contingency.

To distinguish barristers from the technically lower grade members of the profession, the former wear wigs and gowns in court. If they were to get into the habit of discarding them when engaged in earning fat fees, clients would no longer be able to discriminate between them and the solicitors, and would naturally fall to questioning what genuine necessity existed for making such distinction. They

would then inevitably discover that there was none whatever, and, as a result, it would soon be no longer necessary for impecunious clients to engage two or three lawyers to do one lawyer's work. Wherefore the Judges, who all pass through the barrister stage before they reach the bench, will always refuse to "see" a barrister unless he appears in all his somber-wigged and gowned dignity.

Though legal etiquette forbids that a barrister should ever sue for his fees, no such restriction is imposed on a solicitor. That would seem to place the barrister at a great disadvantage in collecting his pay. In reality it works out just the other way. For legal etiquette also requires that the barrister should be paid on the piece-work system, so to speak. He has not to wait to collect his fees until the case is finished. When he is engaged—"briefed," according to the English phrase—he receives a retaining fee, cash down. There is no fixed scale for that. It all depends on the reputation, or lack of reputation, of the barrister. In the case of an eminent counsellor like Rufus Isaacs the retaining fee often amounts to a small fortune, while the barrister who has his reputation to make will often gladly accept \$50. And when the case comes into court at the beginning of each day's work the barrister receives what is termed a "refreshment" which varies in amount in the same ratio.

Another legal propriety forbids the paying of money to a barrister direct. His dignity is such that he must not soil his fingers with the filthy lucre of his clients. Therefore his retaining fee and his daily "refreshment" must be handed to his clerk.

In olden times barristers were not required to keep clerks. But even then their dignity could not be compromised by engineering their fees. These were dropped by the solicitor into the hood-shaped bag at the back of the barrister's gown. Though the bag no longer serves

as a depository for fees it still forms an essential part of the barrister's gown. Nowhere are precedent and conservatism more strongly entrenched than in the law.

A barrister must not hunt up clients. But his clerk can do that for him without any loss of dignity. And a clerk with a large acquaintance among solicitors' managing clerks is a valuable asset to any barrister. There are hundreds of solicitors' managing clerks in London who would think times were hard with them indeed if they had to purchase their own luncheons two days in succession. For it behooves the barrister's clerk on the lookout for business for his master to be given to hospitality.

It isn't every barrister, however, who can afford a clerk all to himself. But since clerks they must have, three or four barristers will often club together and hire a clerk between them. It is, strange to say, a rather poor barrister who has to pay his own chief clerk a salary. Chief clerks get a percentage of the fees which are paid to their chiefs. Thus, in an English bill of legal costs you will come across such curious charges as so many "guineas," \$25 being a guinea. For instance, the fee for issuing a summons may be \$25, the barrister getting the \$5, while his chief clerk appropriates the \$5 cents. Chief clerks act on the same principle as waiters in the big restaurants who go without wages but look for their reward from the tips.

There are, as already mentioned, two grades of barristers—plain and simple, and Kings counsel. The barristers who are only barristers, and nothing more, wear a gown of plain alpaca, called "attuff." And they wear only "bob" wigs—that is wigs that come only about the distance of the back of the neck and leave the ears fully exposed. The barristers who can write K. C. after their names are entitled to wear silk gowns and to lengthen, by a few inches, the wigs they wear in ordinary court practice. When they plead before the House of Lords they add to their dignity by wearing "full-bottomed" wigs—wigs that fall down over their shoulders and cover up their ears. The bob wig of the plain barrister costs from \$100 to \$125. They are made of white horsehair, laboriously curled and woven on silk threads.

The size of the wig is supposed to afford a measure of the dignity to which the wearer has attained. This is strikingly illustrated in the case of the Speaker of the House of Commons. When he is merely the Speaker-elect—that is, a Speaker whose election has not yet been confirmed by the King—he is entitled to wear only a "bob wig." In the bob wig he proceeds to the bar of the House of Commons to get his election confirmed, the King being represented for that purpose by the law lords, who wear cocked hats and full dress wigs with 25 or more rows of stiff and formal curls.

After his election has been confirmed the Speaker returns to the House of Commons, disappears for a few minutes behind the Speaker's chair, whence he emerges in a full-bottomed wig and a long gown with a flunkey (who gets \$500 a year), following him to see that the gown does not get tangled up in his legs when he stalks through the House. The big wig and the gown are the outward and visible signs that he has passed through the physical stage and

attained to the full-fledged dignity of the Speakership.

The billet is a very easy one compared with that of the Speaker of the House of Representatives in the United States. The House of Commons speaker has nothing to do with steering legislation. His functions are entirely non-partisan. He has only to see to it that the oratorical bouts are conducted according to the rules of the game. He gets \$20,000 a year and a handsome suite of apartments, rent free. And when he gets tired of his job, he has only to intimate that fact to the powers that be to be made a peer with a pension of \$12,500 a year for life.

The Lord Chancellor, who presides over the House of Lords, and, by virtue of that fact, is at the head of the English judiciary, has a still easier job. He is never subjected to the ignominy of the bob wig, but wears a wig that is the limit in size from the start. And his salary is double that of the Speaker—\$50,000 a year, doubtless necessary to support the wig. As the presiding officer of the Upper House, his duties are very simple. All he has to do is to sit tight on the "woolsack," as his seat is termed, and let the noble lords run themselves, for they acknowledge no rules or order of procedure. Most of the time when Parliament is in session, the Lord Chancellor seldom things to be worked than a very hour on a stretch on the woolsack, for the peers believe in taking life easy, and soon tire of their own go-as-you-please oratory. But while he is there he must wear his big wig. Just what would

happen if he should venture to appear there without it nobody knows, for no Lord Chancellor has ever had the temerity to make the experiment. But it is certain that the dignity of the British Constitution would receive a tremendous shock.

London, June 4.

Future of Iron Mining.

Henry M. Howe, in the Atlantic.

We think and speak today as if deposits of ore could in the nature of things be worked only to a very moderate depth, a few thousand feet. But this is an error. What is true is that the cost of working increases rapidly with the depth at which the work is carried on, so that at any given time the profitable depth of working is limited by the competition of ore from shallower mines. But, like the richness which makes an ore profitable, the profitable working depth is purely a question of demand and supply. We will first take the richest ores, those in the largest masses, and those nearest the surface, in short the most profitable ores; but we shall later take poorer and deeper ones. To this process there is hardly a limit. Thus it is not a real iron famine that awaits us, but only the need of mining at greater depths and of handling more tons of metallic iron ready for man's use. This handling will in general have to include crushing the ore and separating by mechanical process its scattered particles of minerals rich in iron from the great masses of barren minerals with which they are usually mixed.

Leave of Absence.

Kansas City Star.

C. H. Rudolph, Commissioner of the District of Columbia, paused in the consideration of current business to gaze thoughtfully at a card on his desk. "Now that Spring is with us," said the Commissioner, "I am of the opinion that it would not be a bad idea to have copies of this card placed in every department of the District Government. I have not gone so far, however, as to recommend that it be included in the official orders. The card bears the following inscription: 'Notice—All requests for leaves of absence, owing to funerals, weddings, lame backs, house-moving, sore throat, headaches, indigestion, etc., must be handed in not later than 10 A. M. on the day of the game.'

When the grass shall cover me,
Ina Coolbrith.

When the grass shall cover me,
Head to foot when I can walk,
When not any wind that blows,
Summer bloom nor winter snows,
Shall awake me to your sighing;
Close above me as you pass,
You will say "How kind was I,"
You will say "How true she was,"
When the grass grows over me.

When the grass shall cover me,
Hidden close to earth's warm bosom:
While I laugh, or weep, or sing,
Nevertheless, for anything,
You will find in blade and blossom
Sweet small voices, odorous,
Tender phrases in my ear,
That shall speak for me,
When the grass grows over me.

When the grass shall cover me,
Ah, beloved, in my sorrow,
You patient, I can wait,
Knowing that, at noon or late,
There will dawn a clearer morn;
When your heart will moan, "Alas,
Now I know how true she was,"
Now I know how dear the was,
When the grass grows over me!



SEVEN BROTHERS' AGES TOTAL 460 YEARS

COOPER FAMILY, PROMINENT IN OREGON, TO HOLD SIXTH ANNUAL REUNION IN McMINNVILLE THIS MONTH.

Reading from right to left: Seated—D. J. Cooper, of The Dalles, aged 74 years; W. H. Cooper, of Stayton, aged 76 years; and J. S. Cooper, of Independence, aged 69 years. Standing—E. W. Cooper, aged 88 years, who for several years was a prominent resident of this city, but moved recently to Grass Valley, Sherman County; J. C. Cooper, of McMinnville, aged 65 years; J. E. Cooper, of Portland, twin of E. W., and is 58 years, and R. D. Cooper, of Grass Valley, aged 60.