

# Why the "Fair Weather" Marriage Doesn't Pay

"Common Law Union Is Marriage With the Soul Removed," Says Mary Neal Kelly, Who Was Made a Legal Widow by Court Order. How Her Remarks Epitomize the Tragic Life Stories of Her Sisters in Disaster Who Wed Without Benefit of Clergy -- and Lost!



Mary Neal Kelly, whose common-law marriage to Terence Kelly was legalized by a court order after his death.

Winifred Lynch, awarded \$20,000 heart balm when Alexander Figge, her "husband" of eight years, jilted her to wed another legally.

"My 'husband' was willing for me to face the world alone," testified Mary McDonald, when Robert Smythe Martin discarded her.

BY ELIZABETH SHIELDS.  
**"A**ND this golden band unites us forever, true as love, strong as faith—

"Now are we husband and wife, within the law but above the law; for we have made our own law. We hold ourselves apart from the little customs, the hampering 'shalt and shalt not'; the deadly inhibitions of such civilizations as drive the masses—poor fools!

"Freedom for us, you and I. We have brushed aside the candle gleam which casts no light, the empty counsel of words from printed page. We stand alone; rare creatures who require no outworn guide to happiness.

"You for me and for you myself; we two, in a manner, against society.

"For we are those who have dared to marry under the common law."

Where is the weakness of it, the marriage contracted with apparent honor and faith and a sure intent, but with no benefit of clergy?

Day after day you hear men and women of culture, intelligence, reverence and self-respect express themselves thus:

"Oh, marriage isn't made by the few words a minister or a priest or justice says. Those are the ritual of custom merely; a gesture toward superstition.

"Marriage is agreement of a man and a woman to forsake the world for each other. It is made in heart, not in sanctuary, and though they say it only to each other it must hold fine and true."

But does it?  
 Within a space of five days the newspapers published to the world three accounts of as many disasters which ended the hope and aspiration toward happiness of three common-law wives.

One had been abandoned by the man in whom she placed her trust when he found a younger woman who also looked with favor upon informal marital alliance.

Another was begging the court for material assistance from the mate to whom she had given eight years of her life and who had been lured away by another woman's wealth.

The third was that anomalous creature, a common-law widow, put to the necessity of proving before the law of the land that she merited the protection of that law so lightly rejected in happier days.

These women are a random group selected from the chaos of disaster seething round common-law marriage.

Other marriages go wrong. But not the 99 per cent of them—proportion of failures among unions under the common law.

Why?  
 It is because humanity is not yet civilized to the degree of standing without check of custom. Is it heritage of respect for tradition from our prehistoric ancestors?

Or is it because humanity is becoming overcivilized, fastidiously believing that which is casually won is of little worth after all?  
 Their stories are about the same, save in degree of disaster.

Mary Neal Kelly is an attractive, dark-eyed woman of 27, with a level gaze and a straightforward, honest voice. The sun burnishes her hair so it looks like spun copper against her creamy skin.

On her left hand, round the "heart-

finger," she wears a thin little ring with a thin little diamond setting. Above it there is a broad, plain gold band.

Ten years ago Terence Kelly, who then was 32, placed the diamond-set ring where it is.

A fine figure of a big boy was Terence in those days, with a man-of-the-world dazzle about him, sure to bewilder any girl at any time.

He owned a cafe on a Harlem-street corner and he owned a string of race horses. And the smile of him was a wonderful thing to see.

So, when he smiled at the little Neary girl, daughter of a poverty-stricken widow, the girl smiled back. When he gave her the ring and said "it binds us true as love, strong as faith," she glowed with happiness and pride.

What though a bit of doubt gnawed like a restless mouse in the cellar of her heart? Terence had said it was all right; Terence knew!

They began their life together; that life which was to run more than nine years. He was kind to her; he loved her. But he did not give her a homely little certificate of marriage!

Sitting in her black dress with her bright hair partly covered by a crepe veil, symbol of her grief because Terence is dead, the little Neary girl whom Surrogate Cohalan has established as Mrs. Kelly in the eyes of the law told of her wifehood:

"He would put his arms around my mother and he'd say: 'Mother Neary, it's all right. It's as good as if the church had married us.'

"But it wasn't. It was a fair weather marriage, as all common-law marriages must be.

"I kept a pretty home for him. My mother, brother and sister lived with us and we were happy. I washed and cooked and mended for Terence. I loved to do it.

"We were accepted as Mr. and Mrs. Kelly by his family and mine. Our friends and the neighbors accepted us that way, too—at first.

"When they heard, if they did hear, that we had not been married in the regular way, there always was a difference in their manner. Some would drop us. Very few but would let it be known that they did not approve of us.

"It wasn't disagreeable for my husband. Common-law marriage makes little difference to a man, but the woman is eternally trying to justify herself.

"Of course, I might have brought about a marriage ceremony of the usual kind. I suppose my love for Terence prevented my working toward it.

"I didn't want him to feel that I wasn't satisfied. He kept asking me whether I was happy and I always answered what was in my heart. 'It was only happiness; love for him; but no peace.

"It was after he died and members of his family who had been kind to me before turned on me because of his estate that I felt the tragedy of it all."

Dark eyes brimming with tears and lips wistful, Mrs. Kelly tried to tell just why



Olivia Stone, nurse, who, cast aside by her lover "husband," hunted him down and killed him and then was acquitted of murder.

she believes common-law marriage a failure:

"It's so like ordinary marriage that it is marriage, and yet you know it isn't."

"It seems to me that common-law union is marriage with the soul removed."

Winifred Lynch, who has lived in Brooklyn all her life, was 18 when she met Alexander Figge. He was 25.

He was handsome and rich. She was a poor girl and, she says, unlike the "flapper" of today, unsophisticated.

They fell in love. But they were of different religious faiths. So he asked her to delay their civil marriage while they united in a common-law arrangement.

Apparently, he thought it best to keep their association to himself. For, after it all was over, the girl looking backward, told about the eight years during which she forsook all others for the man who finally betrayed her trust:

"We went to housekeeping in a \$5-a-week room and lived like poor folks. We were known as Mr. and Mrs. Rogers.

"He kept telling me that just a little later we would have a regular marriage. I kept waiting.

"Then one day he came home and told me about another girl. She had a great deal of money, he said, and he intended to marry her.

"When I protested that I was his wife he gave me \$500."

After twice winning suits she brought against her erstwhile common-law husband, both of which were appealed, Miss Lynch settled her claim against him for approximately \$20,000. But there is no compensation for her eight years of deferred hope, disappointment, and final disillusion.

Mary McDonald thought it over five

years before she finally allowed Robert Smythe Martin to lead her over her prejudices to the precarious trail of common-law marriage.

A home girl, sincere and simple of purpose, she lived with her father in Boston, when she met a member of one of New York's oldest families, the then president of a wealthy manufactory.

She refused his first offer and he went to South America. After five years he returned and renewed his suit. Perhaps absence had sewed seeds of recklessness in her heart. She invited the unhappiness that was to be her lot by accepting union without civil or church ceremonial.

It was later, when they had taken an

uptown apartment, with Martin's mother a permanent guest, that the common law mother-in-law figured in the difficulties which finally broke the alliance.

Mary McDonald Martin was thrust into a hospital and charged with insanity. But doctors found her sane. The end of it all was when she asked for alimony. She told of her disillusion:

"My husband threw me out without a penny. He disclaimed me as his wife. He was willing for me to face the world destitute and alone."

Finally there was the common-law marriage of Olive Stone to Ellis Guy Kinkead, which made criminal history in Brooklyn, N. Y., when she met him on the

street after their affair was over and shot him dead.

She was a Kentucky girl who had become a nurse in a Cincinnati hospital when she met the brilliant attorney who came there for treatment.

She went with him to Atlantic City as his nurse and remained there as his wife, after he had bought her a wedding ring and promised a church ceremony at some future time.

Four examples out of the mass of common-law marriages that fail. For they fail just as surely as humanity continues to tread the old, old trail that grows only broader—never obliterated—with the years.

each one in himself, that they did not think even of that: an instinct was showing them the way.

They went beyond the railway and up the down, until by common consent they stopped on the rutted path by the birch wood. It was spring now, and the birches were still bare of leaf; the grass was short, and along the ditch some scattered primroses held out little pallid hands. In the soft and delicate air an enthrallment fell away from Peter; he looked about him with a smile, at the green down that softly swelled, where a few lambs followed the ewes, and sometimes leaped, rigid legged, with an air of glee.

He tried to say something, then stopped. He did not know what had come over him. He wanted to be light, to say something ironic, but the words did not form. So he looked at her as she stood, so still, stabling the soggy earth with her parasol. She was drooping a little, and her lines were soft; she was like a cool primrose in the gentle breeze which blew through the bare birch trees. With a sort of sickness he remembered a similar day three years before.

"Eileen," he murmured, "I've been a fool. But that's all over." She stared at him, not understanding. "I don't know what you're doing here. I suppose you wanted to see the old place again. So do I. I'm staying with some people five miles off. Madeline's there, too, but I'm not going back. Never."

Eileen looked up, and there was perplexity at first in the brown eyes with a red light. Only a few seconds did she realize here was a sort of confession, a sort of regret, a promise of amendment, and, perhaps, even a hope. The man, restless as men are, could not allow her to come to the end of her thought. Suddenly he seized her hand and, with a new energy, with an appeal that never before had laid upon his sardonic lips, said:

"Let's go away from here together, and try again."

She did not reply, looking down seriously at her shoes. "Won't you?" he asked.

Then, with a little smile, as if quickened into resolution, as she at last discovered that she was more than a decoration, she pressed his hand and replied: "I don't mind."

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## WATERMARKS OF ANCIENT DATE STILL USED TODAY

IT IS a curious fact that some of the most ancient technical terms used in the first printing offices are still in use by modern printers. At the present day, we ask for paper, in accordance with the old, distinctive water marks of quality or size.

Water marks adopted by old paper makers, to distinguish their own output, have interested antiquarians, as one can trace by their aid approximate dates, to books or documents. Especially have these marks been of use in cases of forgery, where paper could be proved to be of more modern date than the documents purported to be.

### Circle Is Early Mark.

One of the earliest water marks was a circle, surmounted by a cross, typical of the Christian faith, seen on documents dating from 1301. Papers made in the low countries have a great variety of marks, some being the badges of noble families, whose tenants made the paper. The letter P and the letter Y are the initials of Philip the Good, duke of Burgundy, and his wife, Isabella, whose name was spelled Ysabella, according to the custom of that time.

### Other Symbols Appear.

Other symbols of the house of Burgundy appear—the fleur de lys, the unicorn, anchor and the bull's head. The fool's head for legal cap, with cap and bells, was used from the 13th until the middle of the 17th century, when English paper makers adopted the figure of Britannia, and continental makers other devices.

Equal in interest is the post horn, from which most paper takes its name. This mark was in use as early as 1370. In the 17th century it was surmounted by a ducal coronet, in which form it appears on our ordinary writing paper.

The open hand, surmounted by a star or cross, is one of the oldest marks. Modern readers are familiar with the publications of the Camden society. The small square quartos, known as "pot quartos," took their name from the pot or tankard in common use. This mark

is particularly characteristic of Holland, still preserved at The Hague. In printing and durability the excellence of Dutch paper has never been excelled. The modern papers, although whiter and more beautiful, obtain their qualities by chemical agencies that carry the elements of decay and equal in name only the coarser looking but stronger papers of bygone ages.

### EILEEN

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she say to him? It did not occur to her to wonder what he was doing there.

Eileen, with her companions, lingered for a moment outside the church. The congregation was hurrying out, for everybody wanted to see her, and almost everybody nodded and smiled, though no one spoke. Eileen was too disturbed to think of that, but she felt lonely. She had liked to speak to somebody. Only, what was Peter doing there?

He came up to them after a moment, rather jauntily, fanning himself with his soft hat.

"Hullo, Eileen," he said, "what ever are you doing here?"

Before answering she saw that there was a little gray in his hair; she'd never noticed it before. Perhaps it had increased.

"Oh," she said. "I don't know."

At this moment her companions, grown violently self-conscious, suddenly went off, as if in panic. So Eileen and her husband stayed for a moment in the churchyard. They were alone now, for the congregation had disappeared. They felt embarrassed, unready for explanation. Eileen especially found herself guilty.

"Well," said Peter suddenly, "we can't stay here all the morning."

He took her arm and led her away. Silently they went through the village, meeting no creature, for all the inhabitants had gone to their cottages to prepare their Sunday dinner. A few curious eyes watched them, no doubt, through the curtains, but they were so absorbed,