

# BETTER HOMES FOR OREGON

### Judge George Bingham, Profound Student of Social Problems as They Are Evidenced in the Courts, Suggests Remedies for Social Unrest that is Affecting Every Home-Loving Oregon Man and Woman

(At the Salem Commercial Club, during the summer of 1921, Judge George Bingham, of the circuit court, delivered an address on "Domestic Problems," which created a profound impression on those who heard it. Judge Bingham has consented to prepare part of this address for the Statesman Special, where it may be read by a wider audience than is possible among the Commercial Club hearers.)

THERE is no denying the fact that there is a vast amount of unrest abroad in the land. We see it in business affairs, in social matters, with the young and even in the home surroundings. We are losing respect for the old and the tried, and willing to experiment with almost any new-fangled notion that some theorist may advance. The safe and sane methods which have been tried out in the past are cast aside for new and untried vagaries of a dreamer. Nothing is too sacred to be tampered with. It has found its way into the home and family, where its influence is detrimental to our national welfare.

Ours is a representative government, where the will of the masses, when ascertained, prevails. Every individual is, or should be a thinker, and his thought should come from a pure mind. The morals of a community are reflected in the government of which that community is a part. We judge the future by what has taken place in the past. A lax and immoral social condition has been the downfall of governments. Prosperity brings luxury and idleness; idleness begets licentiousness and moral depravity. When this condition finds its way into the home the time has arrived to, as far as possible, counteract the influence.

Thinking people have viewed with alarm the increasing number of divorces, and recognize it as an evil that, if unchecked, will lead to serious consequences to our institutions and to civilization. The trouble is not with divorces but with the cause which leads up to the separations.

**Some Divorces Inevitable**

Because parties have made a mistake, there is no reason why they should be required to live the remainder of their lives under unhappy and unbearable conditions. There are instances where one of the parties is so unreasonable and vicious that it is impossible for the other to live in peace and contentment. There are others where both are so bad that no one could live with them, and where nothing can be done but separate, and they will separate, no matter what their moral scruples may be, or whatever the law. Divorces are proper under some circumstances, but there are too many for trivial causes. To correct this we should go back to the cause which produced the condition.

**Marriages we have always had in one form or another. If we go back to the colonial days, we find the Puritan colonies of New England it was performed by both laymen and ministers. In New York and New Jersey, Dutch colonies before the English acquired control, marriage was a ceremonial affair, while in the southern colonies on account of being sparsely settled and religious and civil officers not convenient, marriage by mutual consent, or what is commonly known as common law marriages, were common. Now nearly all states require a license, and a ceremony to be performed by some authorized person.**

**Prohibiting Mismatches**

In other words, the state considers itself interested in the promotion of the social welfare, and it has the right to say who may and who may not be joined in wedlock. Take Oregon for example: "It is unlawful for any white person to intermarry with a negro, Chinaman, or any person having a quarter or more negro, Chinese or Kanaka blood, or any person having more than one-half Indian blood."

In my estimation, the fault is in the want of proper appreciation of the duties and obligations of the marriage state. There are some who are naturally vicious, and where such a one is tied up to a good person, a divorce is the only release from bondage. The great majority are thoughtless and heedless. The seriousness of the step they are about to take in life is not appreciated. If we could avoid hasty marriage, and those entered into without proper reflection, something would be accomplished.

One or two instances from the records of the court will illustrate the idea I am endeavoring to convey. A short time ago a paroled convict answered a matrimonial advertisement inserted by some school girl. A correspondence ensued. He went to Iowa, persuaded one of the girls into a hasty marriage, and returned to Oregon. When his conduct was discovered, his parole was revoked and a divorce followed. Another was a marriage on a date.

**Ill-Advised Youthful Divorces**

It is not uncommon to find those who are of the opinion that if a marriage turns out to be unsatisfactory, a divorce is easy to be obtained; and in many jurisdictions in this state, unfortunately, that is true. Court records show that the majority of divorces are applied for by the young, and within the first few years, indicating the want of mature deliberation. There should be some period, say 30 days, for reflection between the time of the application for a marriage license and the application, during which time application should be published or between the application and performance of the ceremony there is an old saying: "Marriage

haste and repent at leisure," that has much truth.

We now have a medical examination of the male as a condition for the issuance of a marriage license, which, as administered, I believe to be an absolute farce. It is a wholesome law which public sentiment should be back of, and evasions should not be tolerated. I know of no greater crime against posterity than the bringing into the world of children with the inherited sins of the social crimes of a parent. The average citizen, self satisfied with his own immediate surroundings, is ignorant or indifferent to this evil.

**What Fills the Asylums**

I would broaden the examination, and include feeble-minded and every known form and expedient that the offspring of two feeble-minded persons is sure to inherit their condition. Marriage should not be the means of furnishing recruits for the state institutions for the mentally weak. There has never been any substitute for marriage, except in Soviet Russia, which would make all women common property and children wards of the state. Some esthetic souls have suggested trial marriages, but the number has been so limited and the result so disastrous as to amount to nothing.

When it comes to divorces, every known form and expedient has been experimented with. In the early Roman period, when a wife was displeasing to the husband, he killed her. As civilization advanced, this was thought to be rather drastic, so the husband was permitted to sell the wife, as well as his children, or to might expel her from his home or send her to her father. When divorces first came into vogue, if the husband and wife wished to separate, they could do so by mutual consent. As evidence of the separation the marriage contract might be torn up in the presence of witnesses, or the keys taken from the wife, or, in the presence of witnesses, the words spoken, "Take your things away." The only penalty was that if the wife were wrongfully put away, she might have her dower returned.

Napoleon divorced Josephine without any cause except unfruitfulness. It was said to be by mutual consent, but on her part undoubtedly obtained by coercion. China, being about two thousand years behind the times, still has divorces by mutual consent. The parties may enter into a written agreement to that effect, and when it is registered it is effective. Court proceedings are necessary only when the parties are unable to agree.

**Divorce Extremists**

Marriage being a civil contract, entered into on permission of the state, we have those who insist that the state should allow it to be annulled as freely as it is entered into, and on the other hand, those who oppose all divorces except on scriptural grounds. Both extremes should be avoided. The original contract being entered into on the state's sanction should not be voided excepting on grounds deemed by the state to be sufficient. "The sacred covenant of marriage should not be lightly entered into; neither should it be easily broken."

The constitution of the United States does not confer power on congress over marriage and divorce, but leaves that as a welfare measure to the several states. Consequently there is no uniformity in the laws of the various states. A white person and a Chinaman may not marry in Oregon, but probably may marry in Washington and return to Oregon and live in lawful matrimony. The same with reference to divorce. Nonsupport is not a ground for divorce in Oregon, but it may be in the state of Washington. One of the parties may go to Washington, establish a residence, obtain a divorce, return to Oregon, marry again, and live in lawful wedlock. An effort is being made to have the legislatures of the various states pass a uniform marriage and divorce law, but sectional differences have impeded progress along that line.

In Oregon there are six grounds for dissolution of a marriage, and it cannot be lawfully done for any other reason. They are impotency, adultery, conviction of a felony, habitual gross drunkenness, willful desertion, and cruel and inhuman treatment. If divorces are evil threatening the well being of our institutions, the question arises, Can anything be done to lessen them? If the number falling under it could be reduced, substantial good would result.

**Desertion a Common Cause**

It will be observed that four of the six grounds refer to conduct after marriage, and that three refer to the conduct of one spouse, and the last and most prevalent ground to acts that may be more or less remedied by judicious advice and counsel. Of all the grounds, desertion and cruel and inhuman treatment are the most commonly assigned. The most prevalent cause of desertion is hasty and ill-considered marriages. We had many examples of that following the World war, in

new attachment while the husbands were overseas, and divorce followed, usually on ground of desertion. Another class coming under this head are young men of no fixed abode who wander away in search of employment, or for other reasons, and do not return. But little or nothing can be done with a class without moral responsibility.

**"Cruel, Inhuman Treatment"**

The greater class, and that probably representing more than half of the total, falls under the last ground of cruel and inhuman treatment, or personal indignities rendering life burdensome, and it is with this class where some remedy may be applied. The term "cruel and inhuman treatment," or "personal indignities rendering life burdensome," is a very elastic term, and is used to cover a multitude of domestic ills. It is said, however, not to include unreasonable or impatient conduct or jealous desire to annoy or harass the wife. Cursing the wife, striking her while angry, neglect when ill, are some of the forms of personal indignities warranting a separation.

In the clerk's office is a complaint containing this paragraph: "The defendant has a surly and morose and vicious disposition and temper, and that she is often seized with fits of anger, and that during these times she is spiteful and abusive, and makes remarks to plaintiff too vicious and vile to be herein set out." Probably if this statement were submitted to the average physician he would say that it indicated a nervous condition, resulting possibly from overwork, worry, troubles peculiar to women, and even sedentary habits. An irritable, peevish and generally disagreeable person will wear on the nerves of the best men. Such a condition, however, is one for the doctor and not for a divorce court, excepting as a last resort. Cure the nerves and you will probably have a cure of the cause. If, before a divorce complaint is filed, the judge or some other person in authority should be of the opinion that the case could be removed, and advise medical treatment, would it not be manifestly better than a separation?

**Poor Baking an Excuse**

Another example from a cross-complaint: "The plaintiff was wasteful and extravagant with the food supplies of the home, and upon one occasion only a few weeks before plaintiff left defendant's home, plaintiff had mixed a large pan of dough for the baking of bread, but for some reason unknown to the defendant, plaintiff did not bake said dough, but threw the whole pan of dough away in a place where she thought it would be secreted from the defendant." In this particular case the woman was married at about the age of eighteen. Suppose the court should think that the trouble arose from ignorance of cooking or poor housekeeping, might it not be overcome by a domestic science teacher being sent to the home to teach cleanliness, cooking and general housekeeping?

In 1921 in Marion county there were 45 divorces to 449 marriages, practically one divorce to 10 marriages. If we consider that

on an average there are two children involved in each divorce, and that half the juvenile delinquents are from families where either the father or mother are dead or living separate by reason of divorce, you can see the child's interest involved in every divorce.

**The Children Pay**

I realize that children can be demoralized by the improper conduct of the parents, but it is better to assume that risk than that they should find homes in reformatories. When it comes to the disposition of children, the wishes of the parents have little weight with the court as to what is for their best interests. The court attempts to see to it that they shall not become public charges, and that they be reared to become good and useful citizens; and parents, before they rush into court, should bear in mind that they are putting their children upon the altar of public welfare, and their wishes in the matter will be of secondary consideration.

Some of the remedies I would suggest would be, avoid hasty divorces as court would hasty marriages. Require the parties to live apart, and by that I mean entirely away from each other for a period of, say, six months, so that they may know their own minds. Before a complaint is filed, have a probation officer endeavor to iron out the differences of the parties. Give time, an opportunity to work reconciliation, and see if the parties have knowledge of the consequences following a separation.

I have long been of the opinion that a wise, discreet and judicious matron of middle age, with a proper comprehension, could be of vast assistance to the court in solving the matrimonial differences which bring people to court, if such could have an opportunity to impress upon the spouses the doctrine of a square deal, their duty to their children and their duty to the state, and the consequences that are liable to follow a revelation of their shortcomings and moral delinquencies; and that it would be worth the effort.

## LITERARY GIANT

(Continued from page 6)

eratic party of Buchanan and Breckenridge, to stand unwaveringly, militantly, for the Union. The proposition of a "Pacific Republic," of the faintest shred of disloyalty to the stars and stripes was the signal for an impassioned, holy war that spared neither old friendships, nor politics, nor anything that might bind men together. If Horace Greeley was the mainstay of the government in the East, certainly the Statesman was its arm and its soul and its guiding star in the Northwest. It was a flaming brand kindling the fires of national love and honor—a service beyond price, beyond measure.

**War On All Treason**

Here is one editorial excerpt: "Pacific Republicans and disingenuous of every stripe and grade, we shall treat as felons and outlaws, regardless of their party pretensions."

The Statesman had grown to a 7-column paper, wide column measure, the page considerably larger than the present Statesman. It had come down to \$4 a

year, and had reached a circulation of 2500 copies, twice over the largest in the state. Here is what it says of itself as it started into its eleventh year:

"The Statesman has denounced all manner of humbug speculation and all rotten candidates for office, and has unmasked pretension, hypocrisy and personal puffing wherever they have been thrust upon the public. In retaliation for this, we are opposed with a bitterness unknown in the history of newspapers here or perhaps anywhere else. Nearly every first-class vagabond in the state has made a personal canvass of his neighborhood, to have somebody 'stop the Statesman.' Every personal consideration, every local or political prejudice which can be brought to bear, through fraud or falsehood, has been employed to that end."

**First Sumter "Extra"**

The Statesman got out an extra, on the receipt of the news of Fort Sumter; this, unfortunately, is not preserved. But the next regular edition contained the story in full, as it came across the plains on the pony express and was relayed up to Oregon. It was the first time in the Statesman's 11 years history that it ever attempted to display a real "head" over a story; and this one wasn't above two inches long. No other surplus of good space was countenanced during the two remaining years that Editor Bush held the paper; they devoted the space mostly to war news, and the stories of the mines. There really wasn't much local news; it was a state paper, and as such, was impartially negligent of all small locality news.

**Golden Age of Newspaperdom.**

It is doubtful whether there is in America today, just such an upstanding, individualistic newspaper as was the Statesman while Asahel Bush's name headed its

columns. The days of personal journalism have passed away; corporations own the big plants that are beyond the individual power of intimate supervision, and names have disappeared from the editorial columns, masked or submerged by an impersonal, unidentified "policy." Of the confessedly "outspeken" journalists of today, most of them serve merely calculated ribaldry or drivel, and not a clean expression of a state- and nation-building instinct.

The early Oregonian, under the name of Harvey W. Scott, was of the Bush sort; but Scott, too, is dead. These two eminent Oregon editors, with the Greeleys, Bennetts, Danas, who were whole armies for the Union in the Civil War, made that the golden age of virile journalism. As newspapers, however, there are a thousand today that are good where there was one of these militant thinkers 60 years ago; the news habit has grown tremendously, but at the expense of individuality. Yet it would be a pleasure to meet, just once, one of these ancient warriors who with their virile pens stirred the nation's heart. But they're all gone!

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