

THE RABBI AS A FUNCTIONARY
IN THE
COURT OF DOMESTIC RELATIONS
by
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INTRODUCTORY STATEMENT.

A most perplexing social problem affecting the foundation of society is the home in these changing times. This state of flux has in many cases torn asunder the sentimental ties which normally bound the traditional family together. In every generation a panacea for domestic ills has been suggested but to no avail. However, when we examine the multifarious causes underlying many of the tragic effects which result in the broken home, we reach a realization that the only possible remedy for this very sad situation is unobtrusive guidance through a process of re-education.

The Court of Domestic Relations has been organized in the City of New York for the purpose of dealing with such exigencies. Many idealistic objectives were set forth upon its inception, but alas, they have all resulted in nothing more than a means of protecting the wife and issue from becoming public charges; the court finally culminating into a collection agency under judicial pressure.

The author has been engaged as the unofficial Jewish arbitrator of this court for the past five years. His attention has been attracted to various shortcomings existing in the very objectives of this court due to the fact that it is concentrating its efforts in the direction of legalism rather than the treatment of domestic difficulties as social problems.

In his attempt to reconcile husband and wife and parents and children who have met with a catastrophe in their home lives due to many situations arising out of psychological incompatibility, social maladjustment, religious misunderstanding, economic instability and various other heartrending situations, the author discovered that in most cases the cause of the disruption was not due primarily to financial difficulties, but to social or physical maladjustment. The arbitrator when entering upon such a scene is in a position to act as the diagnostician and may provide a remedy suitable to all parties concerned.

The aim of this book is to present in detail the prerequisites necessary to qualify the arbitrator to render this type of service. The author suggests that there be appointed a Jewish, Protestant and Catholic arbitrator respectively, to deal with the specific problems of his people.

In the compilation of this material, Chapter I portrays the historical Jewish home as it developed through the Biblical and Talmudic periods. The purpose of this presentation is to acquaint the Jewish arbitrator with a survey of the Jewish scene from whence arise many of the mores, habits, attitudes, and ideals of this people in the modern period. In Chapter II, the Jewish background is supplemented with a modern ideology of the family institution, depicting the various viewpoints of outstanding sociologists concerning the family. The arbitrator must acquire a full understanding of these historical and social manifestations

so that he may intelligently apply himself to these vital problems.

In Chapter III the present status of the Court of Domestic Relations is presented and an analysis is made of its purposes and aims. Finally, Chapter IV deals with the Rabbi as a functionary of this Court. It describes in detail the equipment necessary and the preparation required to do this work ably and well.

Recognizing that the idea governing this innovation in this court is in its infancy and that the Court of Domestic Relations is as yet in the experimental stage, the author presents a plea for the eventual incorporation of the office of arbitrator in the administration of the Court of Domestic Relations.

M. L. S.

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AN HISTORICAL SKETCH OF THE JEWISH HOME.

C H A P T E R I .

Domestic relations as manifested during the Biblical and Post-Biblical periods represent the ground work of the modern Jewish home today. This is significant of an evolutionary growth. Wild describes this development, by stating that this is evidently the way in which the Hebrew contribution to the ideals of civilization was revealed and worked out, through the stages of social progress, through the minds of men who had the power to see beyond the outward appearances of society to the essential meaning involved in any particular stage. Those divinely illumined minds spoke messages for their own day to meet the difficulties of their own social conditions, but they are messages for our day because life keeps repeating itself in the needs of groups of men as well as in the needs of the individual. The literature of a race is but the outward and material encasement of an inner writing made continuously upon the hearts of the people through their economic and social developments. This inner writing consists of the ethical and spiritual lessons learned. With the Hebrews, it resulted in striking religious messages. The helpfulness of the messages to us lies in the fact that they were the product of those universal stages of development through which all races seem to pass. (1)

(1) Wild, Laura H., "The Evolution of the Hebrew People"
pp. 166-167

In the presentation of the "Historical Sketch of the Jewish Home," the author offers an exposition of the various ideologies held by Jewish and non-Jewish authorities in the literature of the Jewish people.

THE HEBREW FAMILY.

The tracing of the process of developing social ideals enables the reader of the Old Testament to place various primitive practices and outgrown customs in their proper place. The practice of polygamy by Abraham, for example, is no warrant for polygamy in modern life. A growing ideal of monogamy appears in the Old Testament. The ideal has developed more vigorously since the times of which we are writing in this book. The fact that the primitive Hebrews practiced polygamy, while the book of Proverbs, a late product in Hebrew life, reveals a social atmosphere of monogamy, serves to class the individual who is a polygamist as a primitive, a back number in civilization's record.

At this point, it is well to record the fact that the chief value of these records of the Old Testament lies not in their setting forth of examples which are worthy of emulation, but rather in their challenge to thought and in the perspective of historical development which they portray. The understanding of this present age has liberated us from a weight of difficulties and enabled us to set our faces toward the future with a joyous sense of the sacredness of that which is new as well as of that which is ancient.

We are abandoning the idea that man is the possessor of woman, for example, in the creation of the new concept of the equal status of woman and man in marriage. Until comparatively recent times, the ancient tradition that a woman was the possession of her father and passed from that ownership only into the dominance of a husband, has held sway. There have been some exceptions, and certain strongminded women have made the doctrine ineffective. Nevertheless, the idea has prevailed generally, and has furthermore had the sanction of religion.

Under the sway of the newer conceptions of social relationships, however, even religion is modifying its attitude. A certain degree of parental authority and control are indispensable for the highest welfare of youth. The path of "laissez faire" leads back to the jungle.

A moral problem of the first importance arises in connection with this question of parental control. In primitive circumstances, where the girl was regarded as the possession of the father, the chastity of maidens was a matter of great importance to the hebrew father. Only the chaste maiden had worth in the marriage market. In some groups, the fact that an unmarried girl had many lovers would enhance her in the eyes of suitors as most desirable, because so much desired. There is no evidence at all, however, that such an attitude ever prevailed with the hebrews. In later times, the money became less and less important. Chastity was still exalted, because it always had been. Laxity in moral conduct on the part of a maiden was fraught with social

peril, in view of the fact that pregnancy might occur, whereupon she would be the object of shame. In modern conditions, when contraceptive methods are becoming widespread, the state as well as the church and family must give heed to moral education as never before. A natural safeguard of pre-marital chastity no longer exists, namely, the fear of pregnancy. The ancient economic safeguard of the marriage market also has long since disappeared. There remains but one course. The social order must provide a thorough program of education in sex matters, and among other items the sanctions for pre-marital chastity must find a place. (2)

The social construction of Israel was distinguished by the emphasis laid upon the family. Its morality was social, and those ideas of individual rights which are amongst our most familiar conceptions were unknown at first to the Hebrews. The moral education of Israel began with the organic and social group, and only in later ages were the ideas of individual rights developed through the teachings of the minor prophets.....(3)

There is a special reason why particular mention should be made of the Jewish system of old. The scriptural patriarchs had vast powers centered in their hands as heads of households. In many ways, the relations of Hebrew parents

(2) Cross, Earle Bennett, "The Hebrew Family", pp. 210, 211, 212, 213.

(3) United Lutheran Church in America, "The Family", p. 8-9.

and children were in fact, similar to those of the Chinese. Yet, in actual use of power there was a vast difference. The Jewish patriarch was restrained in the use of his power. He could not use it arbitrarily. Infanticide, for instance, was altogether forbidden. Ancestor worship was held to be idolatrous. Then, too, his worship of the one true God tempered his authority with conjugal love and parental affection. While the state left his powers considerably unrestricted, the laws of God limited them very definitely. Herein, of course, lay the great and all-important distinction between the Jewish and the pagan patriarchal authority. But in the case of the Jewish patriarch there was the far greater influence of the law of God that protected the members of the household from the abuse of an unrestricted authority... There is no question that the moral and religious restraints flowing from worship of the true God and the observance of his law, and the tender and loving disposition nurtured by the religion of the chosen people of old, afforded ample protection of the wife and child of the Jewish household, far more ample, in fact, than any civil law can afford. (4).

"In the earliest times of the Old Testament narrative the Hebrew family was patriarchal in type, although it furnished no such perfect example of this form of family organization as is afforded by ancient Rome. It is probable that the domestication of cattle and the pastoral and nomadic life

(4) Schmiedeler, Edgar, "An Introductory Study of the Family", pp. 19-20.

which followed have had much to do with the development of the patriarchal type of family. The owner of large flocks and herds must wander in search of fresh pasture lands. He needs a numerous following to assist in tending the sheep and cattle. Thus the tendency is for a group, bound by ties of blood, to wander away from the tribe, and find its common interest in the care and protection of the herds.... In patriarchal times, the Hebrews very generally traced kinship through males (Numbers 1:22; III, 15-20) although evidence is not lacking that this patronymic system had supplanted an earlier maternal kinship system. (Fenton John, "Early Hebrew Life, page 2). (5)

A. BIBLICAL PERIOD

ORIGIN OF THE FAMILY.

In discussing the early Hebrew family, perhaps it may be advisable to cite various passages from the Old Testament concerning the primitive concept of marriage and the family. In its essence we should indubitably decide that even though the mores of the times have undergone a great many changes, yet the meanings of the family institution and the marriage relation have remained about the same. In the Book of Genesis, we find, "so God created man in His own image; in the image of God created He him; male and female created He them. And God blessed them and God said unto them, Be fruitful, and multiply and replenish the

(5) Goodsell, Willystine, "A History of the Family as a Social and Educational Institution," pp. 50-51.

the earth and subdue it."

"And the Lord God said, It is not good that man should be alone; I will make him a helpmeet for him."

"And the rib which the Lord God had taken from man, made He a woman, and brought her unto the man. And Adam said, this is now bone of my bones, and flesh of my flesh; she shall be called woman, because she was taken out of man. Therefore shall a man leave his father and mother, and shall cleave unto his wife, and they shall be one flesh."

"Unto the woman he said, I will greatly multiply thy sorrow, and thy conception; in sorrow shalt thou bring forth children; and thy desire shall be to thy husband; and he shall rule over thee."

"And Lamech took unto him two wives; the name of the one was Adah, and the name of the other was Zillah."

"And it came to pass, when men began to multiply on the face of the earth, and daughters were born unto them, that the sons of God saw the daughters of men, that they were fair; and they took them wives of all which they chose."

In this primitive history of the human race, we find the creation of a single pair, from whom all the varieties of the human race are descended; the necessity of general incest in the first generations; the bigamy of Lamech, the father of Noah, during the lifetime of Adam, the fact that the sons of God freely intermarried with the daughters of men, from whom there sprung a race of giants.

Our next account of the marriage institution in the early period of Oriental history, relates to Abram, the chosen father of God's peculiar people, the Hebrew race.

"Now Sarai, Abram's wife, bore him no children, and she had a handmaid, an Egyptian, whose name was Hagar. And Sarai said unto Abram, behold, now, the Lord hath restrained me from bearing. I pray thee, go in unto my maid, it may be that I may obtain children by her. And Abram hearkened unto the voice of Sarai, and Sarai, Abram's wife, took Hagar her maid, the Egyptian, after Abram had dwelt ten years in the land of Canaan, and gave her to her husband, Abram, to be his wife."

Further on, it is said---"Then again Abraham took a wife and her name was Keturah,"--who bore him six sons.

"And Abraham gave all that he had unto Isaac but unto the sons of the concubines which Abraham had, Abraham gave gifts and sent them away from Isaac his son, (while he yet lived) eastward, unto the east country."

The marriage of Jacob, the son of Isaac, to the two sisters, Leah and Rachel, for each of whom he served their father seven years, is familiar to all readers of the Scriptures. As was customary, each of Jacob's wives had a handmaid or favorite slave, a wedding present from her father. Rachel was the first, best beloved as she was the youngest and most beautiful of his wives. But Leah bore children while Rachel was barren, who, therefore, resorted to the same expedient that had been adopted by Sarai. "And she gave him Bilhah, her handmaid, to wife." Not to be outdone by this maneuver, "When Leah saw that she had left bearing, she took Zilpah, her maid, and gave her to Jacob to wife." Of these four women; the two original wives of Jacob, and the two handmaids of his wives, given to him to wife, but whose children they claimed as their own, came the twelve tribes of Israel.

It is not apparent that any difference was made between them on account of their birth, save that Jacob seemed to have a more tender love for the children of his best beloved wife. The following sentences from this narrative give a vivid idea of the state of the marriage institution of the period.

"And Reuben went, in the days of the wheat harvest; and found mandrakes in the field, and brought them unto his mother Leah. Then Rachel said unto Leah, give me I pray thee, of thy son's mandrakes. And she said, unto her, is it a small matter that thou hast taken away my husband? And wouldst thou take away my son's mandrakes also? And Rachel said, therefore he shall be with thee tonight for thy son's mandrakes. And Jacob came out of the field in the evening, and Leah went out to meet him, and said, thou must come in unto me; for surely I have hired thee with thy son's mandrakes, and he lay with her that night. And God hearkened unto Leah, and she conceived, and bore Jacob his fifth son. And Leah said, God hath given me my hire, because I have given my maiden to my husband."

After two thousand years have passed, we find the institution of marriage or the relation of the sexes existing almost without change of the description of the Patriarchal life in the Book of Genesis.

When the institution and laws of the Jewish **people** were given to Moses, we find some specific regulations respectively to marriage.

Among the commandments, it is said, "Thou shalt not commit adultery." "Thou shalt not covet thy neighbor's wife, nor his man servant, nor his maid servant, nor his ox, nor his ass, nor

anything that is thy neighbor's."

The laws of Moses, or of God through Moses, regulating the duties of masters and slaves or purchased servants, have also a bearing on the marriage relation.

"If thou buy a Hebrew servant six years shall he serve, and in the seventh year he shall go out free for nothing. If he came in by himself he shall go out by himself, if he were married, then shall his wife go out with him. If his master has given him a wife, and she has born him sons and daughters, the wife and the children shall be her master's, and he shall go out by himself. And if the servant shall plainly say, I love my master, my wife and my children, I will not go out free; then his master shall bring him unto the judges, he shall also bring him unto the door or the door post, and his master shall bore his ear through with an awl and he shall serve him forever."

"And if a man sell his daughter to be a maid servant, she shall not go out as the men servants do. If she please not her master, who hath betrothed her to himself, then shall he let her be redeemed; to sell her unto a strange nation he shall have no power, seeing that he hath dealt deceitfully with her. And if he betrothed her unto his son, he shall deal with her after the manner of daughters, and if he take another wife, her food, her raiment, and her duty of marriage shall he not diminish. And if he does not these three things unto her, then shall she go out free without money."

Farther on, as a continuation of the law, given on Mt. Sinai, it is written:-

"And if a man entice a maid that is not betrothed, and lie with her, he shall surely endow her to be his wife. If he r

father utterly refuse to give her unto him, he shall pay money according to the dowry of virgins."

"And whosoever lieth carnally with a woman, that is, a handmaid betrothed to a husband, and not at all redeemed, nor freedom given her, she shall be scourged; they shall not be put to death because she was not free. And he shall bring his trespass offering unto the Lord....and the sin which he hath done shall be forgiven him.

"And the man that commits adultery with another man's wife, even he that commits adultery with his neighbor's wife, the adulterer and the adulteress shall surely be put to death."

Of the priests - the sons of Aaron - it is directed that, "They shall not take a wife that is a whore or profane; neither shall they take a woman that was put away from her husband." And of the high Priest it is commanded that "he shall take a wife in her virginity. A widow, or a divorced woman, or profane, or a harlot, these he shall not take. And he shall take a virgin of his own people to wife".

The manner of trial of a woman by the waters of jealousy, for a suspected adultery, is particularly directed by the Lord in the fifth chapter of Numbers, which reads:

The power of the husband over the wife in allowing or disallowing her religious vows, is shown in Numbers XXX, where, in conclusion it is said:

"Every vow, and every binding oath to afflict the soul, her husband may establish it, or her husband may make it void."

The estimation in which women were held, and the regard paid to sexual purity is shown by the command of God

respecting the apportionment of booty taken in war. In the expedition against the Midianites, this booty consisted of women, children, cattle, asses, sheep, etc.

"And Moses said unto them, Have ye saved all the women alive? Now, therefore, kill every male among the little ones, and kill every woman that hath known man by lying with him. But all the women and children, who have not known man by lying with him, keep for yourself.

These were accordingly divided, in this instance, among the people, the army and the priests and Levites who had the Lord's share, thirty-and-two thousand persons in all of women who had not known man; and these, as in all succeeding times, in the wars of Israel, became their wives and concubines and slaves.

The more special regulations concerning the treatment of female captives and relating to marriage, may be found in Deuteronomy XXI:

"When thou goest forth to war against thine enemies, and the Lord thy God hath delivered them into thine hands, and thou hast taken them captives, and seest among the captives a beautiful woman, and hast a desire unto her that thou wouldst have her to thy wife; then thou shalt bring her home to thine own house, and she shall shave her head, and pare her nails, and she shall put the raiment of her captivity from off her, and shall remain in thine house, and bewail her father and mother a full month after that thou shalt go in unto her and be her husband and she shall be thy wife; and it shall be that if thou have no delight in her, then thou shalt let her go whither she will; but thou shalt not sell her at all for money, thou shalt not make

merchandise of her because thou hast humbled her."

If a man has two wives, one beloved and another hated, and they have borne him children, both the beloved and the hated; and if the first born be hers that was hated, then it shall be that when he maketh his sons to inherit that which he hath, he shall give a double portion to the first born though the son of the hated wife.

"When a man hath taken a wife, and married her and it come to pass that she find no favor in his eyes, because he hath found some uncleanness in her; then let him write her a bill of divorcement, and give it in her hand, and send her out of his house. When she departed out of his house, she may go and be another man's wife. And if the latter husband hate her, and write her a bill of divorcement, and giveth it in her hand, and sendeth her out of his house; or if the latter husband die, which took her to be his wife, her former husband may not take her again to be his wife, that she is defiled, for that is an abomination before the Lord.

"When a man hath taken a new wife, he shall not go out to war, neither shall he be charged with any business, but he shall be free at home one year, and shall cheer up his wife which he hath taken."

There are illustrations of marriage scattered through the Old Testament, of which we copy the most interesting. In Judges, XI, it is written:

"Now Jephthah, the Gileadite, was a mighty man of valor and he was the son of a harlot, and Gilead begat Jephthah, and Gilead's wife borne him sons; and his wife's sons grew up, and they thrust out Jephthah and said unto him, thou shalt not inherit in our father's house for thou art the son of a strange woman.

Samson married a woman of the Philistines, but getting into a difficulty with his relatives, he was absent for a time, and found, on returning to his father-in-law, that his wife was given to his companion, whom he had accepted as his friend." "And her father said, I verily thought that though thou hadst utterly hated her, therefore I gave her to thy companion; is not her younger sister fairer than she? Take her I pray thee instead of her.

The story of the Levite and his concubine, commencing at the 19th chapter of Judges, is one of the most extraordinary narratives in ancient history; and as it is curiously illustrative of the condition and treatment of women among the tribes of Israel, we condense it from the record retaining as far as convenient the language of the original.

"A certain Levite sojourning on the side of Mount Ephraim, took to him a concubine out of Bethlehem-Judah. His concubine played the harlot against him," and went back to her father's house, and was there four whole months. And her husband arose and went after her, to speak kindly unto her, and to bring her back again. She brought him to her father's house and when the father of the damsel saw him, he rejoiced to meet him and his father-in-law, her father, retained him.

"Now as they were making their hearts merry, behold, the men of the city, certain base fellows beset the house round about, and beat at the door, and spoke to the master of the house, the old man, saying, "Bring forth the man that came into thine house, that we may know him."

A similar circumstance is related of the visit of the angels to Lot in Sodom.

"And the man, the master of the house, went out unto them, and said unto them, nay, my brethren, nay, I pray you, do not so wickedly; seeing that this man is come into my house, do not do this folly. Behold, here is my daughter a maiden and his concubine, them I will bring out now, and humble ye them, and do unto them what seemeth good unto you, but unto this man do not so vile a thing."

It was under precisely similar circumstances that Lot said to his neighbors in Sodom, "I pray you, brethren, do not do so wickedly. Behold now, I have two daughters which have not known man; let me, I pray you, bring them out unto you, and do ye to them as is good in your eyes."

What must have been the estimation in which women were held, when such men as Lot, and the hospitable old gentleman of Gibeon, could make such a cowardly, and to our notions, shocking and horrible proposition?

In the latter case, the proposal was in part accepted. The record says:

"So the man took his concubine, and brought her forth unto them; and they knew her, and abused her all the night until the morning; and when the day began to spring, they let her go. Then came the woman, in the dawning of the day and fell down at the door of the man's house, where her lord was, till it was light; And her lord rose up in the morning, and opened the doors of the house, and went forth to go his way; and behold, the woman, his concubine, was fallen down at the door of the house, and her hands were upon the threshold.. And he said unto her, up, and let us be going; but no answer. She was dead. He took her poor outraged corpse upon his ass and carried it home. Then he took

a knife and cut her body into twelve pieces and sent one to the chiefs of each of the twelve tribes, with the horrid story of her wrongs.

The children of Israel rose as one man, and demanded the punishment of the man who had committed this crime. The Benjaminites refused to give up the offender. A war of extermination was declared and the whole tribe slaughtered, men, women and children, with the exception of six hundred men who took refuge in an impregnable mountain fastness. The other tribes had also sworn to give no wives to the children of Benjamin. So one of the tribes was in danger of extermination. The Lord was appealed to for direction in this difficulty.

Upon inquiry, it was found that one city of Israel had not joined in the massacre of the Benjaminites. Twelve thousand men were therefore sent with this order, "Ye shall utterly destroy every male, and every woman that hath been lain by man."

Men, women and children were all destroyed, all but four hundred virgins, and these were brought to the Benjaminites to be their wives; but these were not sufficient. So the elders of Israel remembered that there was a feast at Shiloh, in which the young women came out into the vineyards, with songs and dances. They therefore directed the Benjaminites, who were unprovided by the massacre of Jabean - Gilead, to lie in wait, and siege upon the daughters of Shiloh, and so wives were provided for all the children of Benjamin. The whole story appears in the last three chapters of the Book of Judges.

David was married to Michal, the daughter of Saul, who when he quarreled with his son-in-law, gave his wife to

another. David next married Abigail, the widow of Nabal, and Ahenoam of Jezreel. Subsequently he procured the death of one of his captains and married his beautiful wife Bathsheba. He had also the supply of concubines usual with eastern princes. Ten of these, for an infidelity with his son Absalom, "he smit up until the day of their death, living in widowhood."

But Solomon far exceeded his father David. "And God gave Solomon wisdom and understanding exceeding much, and largeness of heart, even as the sand is on the seashore. And Solomon's wisdom excelled the wisdom of all the children of the East country and all the wisdom of Egypt... and he spoke three thousand proverbs, and his songs were a thousand and five;;...And there came of all people to hear the wisdom of Solomon, from all kings of the earth which had heard of his wisdom...but Solomon loved many strange women (together with the daughter of the Pharaoh), women of the Moabites, Ammonites, Edomites, Zidonian, and hittites...Solomon clave unto these in love, and he had seven hundred wives and three hundred concubines, and his wives turned away his heart. "

We have seen in this whole history the servitude of women, the want of all recognition of any right over her person or actions. Polygamy and concubinage, violence and rapine, are sanctioned by the highest authority and examples. The right of property in women is rigidly guarded by the severest laws; but the equality of women with men, from first to last, is nowhere admitted. (6)

(6) Nichols, H.L. and Mary S.G., "marriage", pp.27-40 inclusive

However, we must not lose sight of the fact that we are discussing early civilization and the primitive family. We cannot expect to find a perfect society at this period. From the modern point of view, certain authors writing on this period (e.g. Mary B. and T. L. Nichols, in their book on "marriage"), give the impression that they **are** sorely disappointed and saddened because of prevailing unsocial conditions of this period. Surely these authors do not expect that we are to literally emulate the mores of the primitive period, because we find this information in the Bible?

The Old Testament from the historical point of view provides archaic ideas of family relationships which must be understood and appraised in terms of the period in which they existed.

POLYGAMY AND MONOGAMY.

The Old Testament leaves us in no doubt as to the fact of polygamy. A plurality of wives and a state of concubinage was the prevalent order of things, and the means of maintenance was the only check on its activity. We read in the book of Judges that "Gideon had three score and ten sons of his body begotten, for he had many wives. (a) In II Samuel v., 13, we learn that "David took him more concubines and wives out of Jerusalem." and finally it is recorded in the book of Kings that "Solomon loved many strange women. (b).

The later law of Israel prohibited this practice, and the prophets, one after another, denounced and discouraged it

(a) Judges, VIII, 30;
(b) Kings XI, 1.

with no uncertain voice. The later prophets, Hosea and Isaiah, and Jeremiah, were vigorous protagonists of monogamy, and there is no fiercer champion in the Holy Writ of the sanctity of the monogamous home, than the prophet Malachi. And lastly, the author of 128th Psalm is merely describing the happiness of monogamy. In the time of the Romans, polygamy had ceased, and monogamy was the rule.

In the book of the prophet Hosea occurs the indignant wrath of Jehovah against the uncleanness of Israel. Plead with your mother, plead...let her therefore put her adulteries from between her breasts." (c) Again in the fourth chapter, "By swearing and lying, and killing and stealing and committing adultery, they break out, and blood toucheth blood. There the land shall mourn and everyone that dwelleth therein shall languish" (d).

Later in the same chapter, "s all I not punish your daughters when they commit whoredom, nor your spouses when they commit adultery?" (e).

In the seventh chapter Israel is described in anger and despair. "They are adulterers all, as an oven heated by the baker." (f)

Isaian in the 57th chapter, vv. 3-4, cries, "Draw near nither, ye sons of the sorceress, the seed of the adulterer and the whore, against whom do ye sport yourselves?" (g)

Jeremian is very vehement in his language. "They say, if a man put away his wife, and she go from him, and becomes another man's wife, shall he return unto her again? Shall not

(c) Hosea, II, 2
(e) Hosea, IV, 14 (R.V.)
(g) Isaian VII

(d) Hosea, IV, 2-3
(f) Hosea VII, 4

that land be polluted?" (h) Again, "now shall I pardon thee for this? Thy children had forsaken me, when I have fed them to the full, they then committed adultery....everyone neighed after his neighbor's wife. (i).

"I have seen thine adulteries...Woe unto thee, O Jerusalem." (j).

"Because they have committed adultery with their neighbor's wives...even I know, and am a witness, saith the Lord". (k).

Malachi, speaking with the later fullness of prophetic perfection plainly sets forth Jehovah's attitude to the sin of adultery. "Yet ye say, wherefore? Because the Lord hath witness between thee and the wife of thy youth, against whom thou hast dealt treacherously. Yet is she thy companion, and the wife of thy covenant. And did not he make one? Yet had he the residue of the spirit. And wherefore one? That he might seek a good seed. Wherefore take heed to your spirit, and let none deal treacherously against the wife of his youth.. For the Lord, the God of Israel saith that he hateth putting away. (l)

ENDOGENOUS UNIONS.

The earliest days of Hebrew marriages were connected with endogenous unions, i. e. marriages within the kinship of the contracting parties. Thus it was that Isaac and Jacob could only marry with their own kindred. This was a practice jealously cultivated, and in Genesis, Isaac and Rebekah are described as grieving over the Canaanitish wives of Esau.

(h) Jer. VIII, 1.
(j) Jer. XVII
(l) Gen. XXVI, 35

(i) Jer. V, 7-8
(k) Mal. II, 14-16

The custom would not be carried out invariably, however, and Moses provides a notable departure from the endogamous practice, since he married a Midianite during his exile. (m) After the bondage and the settlement of the Israelites in the land of Canaan, there was of necessity a general intermingling with foreign husbands and wives, which, however, Deuteronomy VII, 3, and Exodus XXXIV, 16, forbid:

"Neither shalt thou make marriages with them; thy daughter thou shalt not give unto his son, nor his daughter shalt thou take unto thy son." (n).

"Lest thou take of their daughters unto thy sons, and their daughters go a whoring after their gods, and make thy sons go awhoring after their gods". (o).

Great laxity again sprang up after the Babylonian captivity, but under the reforms of Ezra and Nehemiah the strictness of early times was strenuously enforced. The prohibitive degrees, within which no Hebrew marriage could take place, were elaborate and comprehensive. They form the basis of prohibitions for most modern nations today. By these prohibited degrees (Lev. 18-20) the following relations are barred - mother, step-mother, mother-in-law, father's sister, mother's sister, paternal uncles' wife, half sister, step-sister (daughter of step-mother and her former husband), sister-in-law (brother's wife), living wife's sister, daughter-in-law, step daughter, grand-daughter or daughter of step-son or step-daughter.

It is a curious fact that in this table of prohibited degrees the deceased wife's sister is not included.

(m) Ex. II, 21

(n) Deut. VII, 3

(o) Ex. XXXIV, 16.

The wife's mother and daughter are both barred, and yet the sister is not mentioned.

THE LEVIRATE MARRIAGE.

The Levirate marriage should here be referred to. It consists of marriage with a brother's widow. We have seen above that such a marriage was ordinarily illegal, but Deuteronomy (XXV. 26) lays down the rule that in the case of no male issue, and two brothers living upon the same estate, on the decease of one, the surviving brother should marry the widow and raise up seed to the deceased brother. The first born son of such marriage was reckoned as the son of the dead brother and succeeded to the inheritance. The first husband's name was thus preserved and the alienation of the property prevented. An unwilling brother was put to public shame by means of the curious ceremony of "Halizah", where the widow was allowed openly to insult him by unloosing his shoe, and spitting in his face. "If brethren dwell together, and one of them die, and have no child, the wife of the dead brother shall not marry without unto a stranger; her husband's brother shall go in unto her, and take her to him to wife, and perform the duty of an husband's brother unto her. And it shall be, that the first born which she beareth shall succeed in the name of his brother which is dead, that his name be not put out of Israel. And if the man like not to take his brother's wife, then let his brother's wife go up to the gate unto the elders and say, "My husband's brother

refuseth to raise up unto his brother a name in Israel, he will not perform the duty of my husband's brother. Then the elders of his city shall call him, and speak unto him; and if he stand to it, and say, "I like not to take her", then shall his brother's wife come unto him in the presence of the elders, and loose his shoe, from off his foot, and spit in his face, and shall answer and say, "so shall it be done unto the man that will not build up his brother's house." And his name shall be called in Israel, 'The house of him that hath his shoe loosed.' (q).

POLYANDRY.

J. F. MacLennan, in "Studies in Ancient History" suggests that polyandry among the Jews was the reason for the Levirate marriage. But no traces of polyandry have been found among the Jews, and it would be rather opposed to Hebrew traditions, for it would be against the interest of the surviving brother to allow the estate to go out of his possession again. (r) An interesting question arises as to the motive of the framers of the prohibitive degrees in Leviticus. There was always among the Hebrews and early Romans a natural horror of and shrinking from incest, although in ancient Egypt marriage between brothers and sisters was common enough. It would not seem to have been from any special scientific or medical knowledge of the evil which might flow from consanguineous unions that the prohibitions were imposed; for Egypt would not be behind Israel in the matter of scientific learning. It is more likely

(q) Deut. XXV, 5-10.

(r) Jewish Enc. vol. 8, p. 335.

that the Hebrews, forming a Theocracy, and having settled down to a more composed, and orderly regime, were ready for the commands of a divinely delegated law-giver who received his utterances direct from the fountain source. The fact that the wife's sister is not made a bar in the prohibitions, also invites thought. It could scarcely be said that there was any intention to give woman an advantage, by allowing the deceased wife to hand over her children to be cared for by her sister. Such concessions to the female sex in those days did not exist. As a matter of fact, the wife's sister was barred by implication, and the bar of the brother's wife was only removed when circumstances required the Levirate marriage. But whatever may be thought of the composition, scope and equity of the Levitical table, it surely stands out as the most significant and most far-reaching of any decree issued in Eastern or Western countries. It resulted in a far purer system of domestic life than was to be found where laxity was allowed in family relationships.

WIFE AS PROPERTY.

In Hebrew law as in Roman law the wife was regarded as property. But there was a feeling that the wife was valuable property, and therefore she was as a rule, well cared for. Among the wealthier classes, and in noble houses, she was an important person and enjoyed a considerable measure of independence. Sarah, Deborah, Joel and Jezebel amongst others, are examples which go to show that the Hebrew wife exerted a great influence in her husband's affairs. She must be chaste and obedient, and infidelity on her part was looked upon as the

grossest of sins, and was followed by capital punishment. Adultery was strictly forbidden and denounced by the prophets. (s)

The widely prevalent rule that greater laxity should be allowed to husbands than to wives was apparent in Hebrew law, though conjugal fidelity on their part was highly esteemed, and sexual license was regarded as wicked and fatal. David was made an example of for his adultery with Bathsheba, and the author of the Book of Proverbs describes the theocratic penalties for the license of youth. (t).

To conclude, ancient Jewish history shows an antagonistic attitude toward adulterous and unhallowed practices. Abimelech promised death to any of the men of Gerar who should meddle with Isaac's wife. (u) Judah condemned Tamar to be burnt for her adulterous conception. (v) And in the fifth chapter of the Book of Numbers, we read how God instituted a fearful ordeal for the purpose of discovering a suspected woman, namely that her bowels should burst with drinking the waters of Jealousy. (w). The Egyptian law was to cut off the nose of the adulteress, and the offending part of the adulterer; the Locrians put out both the adulterer's eyes. The Germans (as Tacitus reports) placed the adulteress amidst her kindred naked and shaved her head, and caused her husband to beat her with clubs through the city; the Gortyneans crowned the man with wool, to shame him for his effeminacy; and the Cumani caused the woman to ride upon an ass naked and hooted at, and for ever after called her by an appellation of scorn, "A rider upon the ass", all the nations, barbarous and civil,

(s) Hosea, II, 2; IV, 2 and 3; Isaiah LVII, 3 and 4; Jer. III, 1 v. 7 and 9; XIII, 27; XXIX, 23

(t) Malachi II, 14-16 (u) Gen. XXVI, 2

(v) Gen. XXXVIII, 24 (w) Numbers V, 14 to end.

agreeing in their general design of uprooting so dishonest and shameful a vice from under heaven. (6)

IMPORTANCE OF THE FAMILY.

The nations of ancient history were not composed of individual persons in the modern sense. They were made up of "houses" or families, which were organized on the basis of blood relationship. The family group takes its origin amid the darkness of prehistoric times. It is the foundation stone of savage and barbarian society; and it has always been a powerful factor in the life of the great historic civilizations. The farther back we go in ancient history, the more important the family becomes. In fact, ancient society was regarded as an extension of the family; and the nation Israel was commonly referred to, in terms of kinship as the "children of Jacob-Israel", or the "family of Israel". It is at first rather difficult for the modern mind to realize the strength of the kinship idea in ancient society. Only with an effort can we grasp the importance of the blood bond among races more primitive than ourselves. In ancient history and also among the more backward peoples now living on the earth, kinship is the only ground upon which a social group can be constructed. It is the central tie around which the activities of life revolve. The modern civil state puts the tie of blood in a subordinate and inconspicuous place; and it overlaps the family idea with an imposing net work of

(6) Leathley, Rev. S. A., "The History of Marriage and Divorce"
pp. 15-26.

political relations.

THE POSITION OF THE JEWISH WOMAN.

We must note that woman had a recognized right of ownership, and that the property of the husband was security for that of the wife and for her dowry, but the husband none the less held the wife in strict dependence. The song of the "woman of valor" at the end of Proverbs is generally quoted as a sublime portrait of the Jewish wife. However, in reading these celebrated verses with an unprejudiced mind, we hardly find more than the portrait of a laborious servant, busy and grasping. "She seeketh wool and flax, and worketh willingly with her hands,....She riseth while it is yet night, and **giveth** meat to her household and a portion to her maidens. She considereth a field and buyeth it; with the fruit of her hands she planteth a vineyard. She girdeth her loins with strength, and **strengtheneth** her arms....Her candle goeth not out by night".... Finally, and this is much more severe, she was always obliged to be able to prove, cloths in hand that she was a virgin at the moment of her marriage, and this under the pain of being stoned. Let us listen to the sacred book. "If any man take a wife, and go in unto her and hate her....."And seeking a pretext to repudiate her, he imputes to her a shameful crime, saying, "I took this woman, and when I came to her, I found her not a maid...her father and mother shall take her, and shall represent to the elders of the city in the gate the tokens of the damsel's virginity. "

Of what kind were these proofs? The following verses tell us, "They shall spread the cloth before the elders of the city and the elders of the city shall take that man and chastise him and they shall amerce him in an hundred shekels of silver, and give them unto the father of the damsel....but if this thing be true and the tokens of virginity be not found for the damsel, then they shall bring out the damsel to the door of her father's house and the men of the city shall stone her with stones that she die; because she hath wrought folly in Israel, to play whore in her father's house; so shalt thou put evil away from among you." (y) If we add to the preceding, that by the law of the Levirate, the childless widow, whether she wished or not, was ordered to her brother-in-law, we shall be enlightened as to the unenviable position of the unmarried woman under the Biblical Law. (7)

DIVORCE REGULATIONS OF MOSAIC LAW.

Divorce is a legal dissolution of the marriage relations while both parties are still alive. The ethical principle of marriage is certainly against such a dissolution. This principle demands that those who enter into the conjugal covenant should regard it as a relation permanent as their own lives. The very words of the Scripture, in speaking of the original institution of marriage, "Man shall cleave to his wife, and they shall be one flesh" (Gen. II, 24) - intimate that marriage shall be an indissoluble union. But

(y) Deut. XXII, v. 13.

(7) Wallis, Louis, "Sociological Study of the Bible", p. 40.

the ethical principle is not always sufficient for life's actual circumstances. There are circumstances, the evil influences of which sometimes undermine the very basis of a contracted marriage, and defeat its purposes to such a degree as to render the continuation of this relation inadvisable and almost impossible. When through the fault of one of the parties, the matrimonial union has suffered a breach which cannot be healed; when mutual love and affection, harmony and peace have been banished from their hearts and their home, and constant discord and strife and mutual aversion and animosity embitter domestic life; in one word, when instead of being a source of the highest felicity, marriage becomes the source of the deepest woe and misery, then the sanctity of matrimony, as well as the welfare of the parties, make it advisable that the unhappy union should be dissolved. Divorce is here only the external dissolution of a relation which, internally, has already been destroyed.

The Mosaic Law, which, though raising the highest standard of moral principles, never loses sight of life as it is, and endeavors to regulate and mitigate such evils as can not be extirpated, therefore permits a divorce under certain conditions. (8)

The Hebrews seem to have been alone among the Semites in adopting monogamy, at least in general practice. Moreover, the Bible tells us that concubinage was not forbidden to God's chosen people. In speaking of the daughter sold by her father to a rich man, the book of Exodus used language

(8) Mielziner, "The Jewish Law of Marriage and Divorce" pp. 115, 116.

sufficiently explicit on this point. - "If she please not her master who hath betrothed her to himself, then shall he let her be redeemed, to sell her unto a strange nation he shall have no power. And if he hath betrothed her unto his son, he shall deal with her after the manner of daughters. But if he takes to him another wife, her food, raiment and her duty of marriage, shall he not diminish." (z) The Book of Genesis indeed tells us that "a man shall leave his father and mother and shall cleave unto his wife; and they twain shall be one flesh;('aa) but this famous verse seems to indicate the violence of the love rather than monogamic and indissoluble marriage.

Doubtless the subjection of the Jewish woman was not extreme. Her consent to marriage was necessary, it is true, when she had reached society like Israel, the civil state was impossible and unthinkable. The simpler organization of life in those ages thrust the bond and blood clearly in the foreground. Not only so, but the fact of kinship itself was treated from a standpoint unlike that of the present day. (9).

THE MOSAIC LAW PROHIBITS INTERMARRIAGE.

The Mosaic Law prohibits intermarriage with certain Canaanitish nations, seven in number. "Thou shalt not make marriages with them, thy daughter shalt thou not give unto his

(z) Exodus, XXI, 8-10. (aa) Genesis II, 24

(9) Ch. Letourneau, "The Evolution of Marriage", pp. 189, 190, 191.

son, and his daughter shalt thou not take unto thy son." As a motive for this prohibition, is added; "For they will turn away thy son from following me, to serve other gods." (Deut. VII, 3, 4).

Actuated by this motive and at the same time, by the desire to preserve the purity of the Jewish race, Ezra and Nehemiah extended the Mosaic prohibition of intermarriage so as to include all the pagan notions of the country, and with great rigor compelled those who had entered such marriages to separate from their heathenish wives. (Ezra IX, 1, 2; X, 10, 11; Nehemiah X, 31; XIII, 23-25).

B. POST-BIBLICAL PERIOD.

ETHICAL DOCTRINES OF THE HOME.

The sages of old had a wholesome understanding of the influence of the home. Time and time again this institution was defined as a veritable miniature sanctuary from which radiated virtue, purity of heart and religious sanctity. In the Talmud we find the Rabbis proclaiming that God's presence dwells in a pure and loving home. (1)

In the relation between husband and wife a beautiful sentiment is expressed by the sages when they aver that the husband should love his wife as himself, but should honor her more than himself. (2). The Rabbis say that in a home where the wife is the daughter of a God-fearing man, the husband has God for a father-in-law. (3).

(1) Kiddushin 71;

(2) Sanh. 76b; Yebamoth 62b

(3) Kiddushin 70.

The Rabbis emphasize the solidarity of the home through character when they state that not money but character is the best dowry of a wife....Who is rich? He whose wife's actions are comely. (4). Who is happy? He whose wife is modest and gentle. (5).

The position of the wife as the guiding spirit of man is emphasized in the declaration that he who liveth without a wife is no perfect man. (6). To be unmarried is to live without joy, without blessing, without kindness, without religion, without protection, without peace. (7). An unmarried man is not a man in the full sense; as it is said, 'male and female created He them, and blessed them and called them man'. (8). As soon as a man marries, his sins decrease. (9). No man without a wife, neither a woman without a husband, nor both of them without God. (10). If virtuous, they are helpmates to each other; if not, they stand against each other. (11). God dwells with the faithful husband and wife. Without him they are consumed by the fire of strife. (12). (This sentence contains, in the original, an inimitable play on words. The word $e'k$ and dek have the letters Aleph and Shin in common, to which letters Yod and He are added. These two additional letters form the name of God yh . If this name of God is taken from the faithless husband and wife, then only $e'k$ (fire) remains on either side; indicating that the mutual fire of passion and strike will surely consume them.)

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| (4) Sabbath 25 (7) | (5) Aboth D Ra. Nathan |
| (6) Yebamoth 63; 70 Ibid 62 | (8) Ibid 63a; |
| (9) Yebamoth 63 | (10) Bereshit Rabba, chap. 8 |
| (11) Yebamoth 63; 12 | (12) Sotah 17 |

A practical outlook upon marriage is recognized when the Rabbis command "first build a house and plant a vineyard (i.e. provide for the means of the household) and then take a wife". (13) And very wisely they declare that we are to descend a step in choosing a wife. (14).

An abhorrence against a great difference in the range of years between husband and wife is expressed when they imperatively command: "let youth and old age not be joined in marriage, lest the purity and peace of domestic life be disturbed". (15) Who marries his daughter to an old man, or who takes an old woman as a wife for a young son, to him the verse refers, 'to add drunkenness to thirst; the Lord will not pardon him. (Deut. XXIX, 19f) (16). Concerning the Levirate marriage, the Scripture declares, "then the elders of this city shall call him and speak to him" (Deut. XXV, 8); and the Talmud comments "This teaches that they gave him advice suitable for him. If he was young and she old, or vice versa, they would say to him, "what sense is there in your marrying one much younger than yourself, or what sense is there in your marrying one much older than yourself?" Go, marry one who is about your own age and do not introduce strife into your house". (17). The Rabbis deplored the hen-pecked husband for they felt the possibility of realizing his aspirations and ambitions were

(13) Ibid 24

(14) Yebamoth 63

(15) Sanhedrin 76; Yebamoth 101 (16) Sanhedrin 76b

(17) Yebamoth 101b

nil if the wife were in command. At times they appear to be rather vehement in their declaration in this regard. Whoever follows his wife's advice falls into Gehinnom. (18). Among those who will never behold the face of Gehinnom is he who has a bad wife. (19) Among those who cry but nobody takes notice of them is the husband who is ruled by his wife. (20) A bad wife is leprosy to her husband. What is the remedy? Let him divorce her and be cured of his leprosy. (21). If one has a bad wife, it is a religious duty to divorce her. (22) Among those whose life is not life is the man who is ruled by his wife. (23).

It seems that the wife and the home were synonymous terms, for the Rabbis declare that a man's home means his wife. (24) R. Jose said, "Never have I called my wife by that word, but always 'my home'". (25). Let a man be careful to honor his wife for he owes to her alone the blessing of his house. (26)

The enrichment of a husband's life may be emphasized by the virtues of his wife. The Rabbis ask: Who is rich? He who has a noble wife. (30). Love your wife like yourself; you will then see the fulfillment of the promise 'And thou shalt know that there is peace in your tent.'" (31). If thy wife is small, bend down to her, to take counsel from her. (32).

The separation by death or divorce is portrayed as a tragedy when the sages declare a husband's death is felt by none as by his wife. A wife's death is felt by none as by her husband. (33). The whole world is darkened for him whose

(18) Babba Metzia 59
(20) Babba Metzia 75b
(22) Ibid
(24) Yoma 2
(27) Sanh. 107b
(31) Yebamoth 63

(19) Erubin 41b;
(21) Yebamoth 63b
(23) Betzah 32b
(25) Shabbath 118b
(26) Babba Metzia 59
(28) Babba Metzia 59
(30) Sota 17
(32) Babba Metzia 59
(33) Sanh. 22

wife died in his lifetime. (34) He who sees his wife die, has, as it were, been present at the destruction of the temple. (35) In the matter of separation by divorce, the sages say that tears are shed on God's altar for the one who forsakes the love of his youth. (36). He who divorces his wife is hated before God. (37)

WOMAN

A peculiar sense of superiority was assumed by man. This was due perhaps, because of the inferior position of woman during the biblical period. It is quite possible that in many instances this had a great effect upon the considerations of the Rabbis during the post-biblical period. In the prayerbook every morning, we are told that a man is obliged to offer three benedictions daily; that He has made me an Israelite, that He has not made me a woman, that He has not made me a boor. (38). However, the Rabbis explain that Scripture places men and women on an equality with regard to all the laws of the Torah. (39)

Women became wage earners and were expected to give of their toil toward the support of their children and their husbands so that they may study the Torah. The Rabbis ask; "Wherewith do women acquire merit?" By sending their children to learn Torah in the synagogue and their husbands to study in the schools of the Rabbis. (40).

(34) Ibid.

(36) Gittin 90

(38) Menachot 43b

(40) Berachot 17a

(35) Ibid.

(37) Ibid.

(39) Baba Kamma 15a

Dependence upon the woman for moral support is expressed in the Midrash. The Rabbis illustrate this contention by pointing to a pious man who was married to a pious woman. Being childless, they divorced one another. He went and married a wicked woman and she made him wicked. She went and married a wicked man and made him righteous. It follows that all depends upon the woman. (41).

And again the Rabbis clarify the position of the woman by narrating a story as follows: An emperor said to R. Gamliel, "Your God is a thief, because it is written: 'The Lord God caused a deep sleep to fall upon Adam, and he slept; and He took out one of his ribs'". (Gen. II, 21). The Rabbi's daughter said to her father, "leave him to me, I will answer him. She then said to the emperor, "Give me an officer" (to investigate a complaint). For what purpose?, he asked; and she replied "thieves broke into our house during the night and stole a silver ewer belonging to us, but left a gold one behind." Would that such a thief visited me every day, he exclaimed. Was it not, then, a splendid thing for the first man when a single rib was taken from him and a woman to attend upon him was supplied in its stead?, she retorted. (42)

The modesty of womanhood is described by the Midrash when the Rabbis attempt to describe the reason for the rib story in the Bible. They say, God considered from which part of man to create woman. He said, I will not create her from the head that she should not hold up her head too proudly, nor from the eye that she should not be too curious; nor from the ear that she should not be an eavesdropper; nor from the mouth that she should not be too talkative; nor from the heart

(41) Genesis Rabba XVII, 7.

(42) Sanh. 39a.

that she should not be too jealous; nor from the hand that she should not be too acquisitive; nor from the foot that she should not be a gadabout; but from a part of the body which is hidden that she should be modest. (43).

On the other hand the sages recognize certain popular shortcomings of womanhood when they declare: "Four qualities are ascribed to women; they are gluttonous, eavesdroppers, lazy and jealous. They are also querulous and garrulous. (44)

The sages continue by saying ~~tat~~ ten measures of speech descended to the world; women took nine and men one. (45)

In Sabbath 33b, women are charged with being light-minded. (46). The Rabbis nevertheless offset many of these generalizations by declaring, "It is not a woman's way to sit at home idle". (47) It is the way of woman to ~~remain~~ at home, and for man to go into the market place and learn intelligence from other men. (48). God endowed woman with more intelligence than man. (49) A woman spins even while she talks, and the goose bends its head while walking, but its eyes wander about. (50) Women are compassionate. (51)

Feminine vanity is both praised and condemned by the sages when they say that the things for which a woman longs are adornments. (52). A woman's thought is only for her beauty. If a man wants to give his wife pleasure, let him clothe her in linen garments. (53) These are the adornments of woman;

(43) Genesis Rabba XVIII;2
(45) Kiddushin 49b
(47) Kethuboth
(50) Megillah 14b
(52) Kethuboth 65a

(44) Genesis Rabba XLV, 5
(46) Sabbath 33b
(48) Niddah 45b
(51) Megillah 14b
(53) Ibid

treating the eyes with kohl, curling the hair into ringlets, and rouging her face. The wife of R. Chiada used to adorn the face of her daughter-in-law. R. Huna b. Chinnena once sat in the presence of R. Chiada and (seeing this) said, 'It is only permitted with a young woman, not an old one'. He replied, by God, it is even permitted with your mother and your grandmother, and even if she stood on the brink of the grave; for as the proverb tells, a woman of sixty, the same as a girl of six, runs to the sound of the timbret. (58)

MARRIAGE.

Some outstanding considerations are expressed by the Rabbis regarding the marriage of their children so as to assure the **sanctity** of the home. The responsibility of the father toward his children is expressed by the sages who say, "while your hand is still upon the neck of your sons from sixteen to twenty-two, or according to another opinion, from eighteen to twenty-four, get them married. (59) It is said that up to the age of twenty, the Holy One, blessed be He, watches for a man to marry, and curses him if he fails to do so by then. (60).

The Rabbis considered the importance of marriage when they declared that one may sell a Scroll of the Torah for the purpose of marriage. (61) The verse, "Profane not thy daughter to make her a harlot" (Lev. XIX, 29) was applied to a man "who

(58) Moed Katan 9b
(60) Kiddushin 29b

(59) Kiddushin 30a
(61) Meg. 27a

delays in arranging a marriage for his daughter while she is of suitable age. (62). A man is forbidden to give his daughter in marriage while she is a minor, until she is grown up and says, I wish to marry so and so. (63)

The divine element is emphasized by the sages in the arrangements of marriages. They say that forty days before the formation of a child a Bath Kol (i.e. a voice from Heaven) announces, this person is to marry so and so's daughter. (64) To substantiate this concept, a story is told in the Midrash. A Roman lady asked a Rabbi, "In how many days did the Holy One, blessed be He, create the Universe?" In six days, he answered. What has He been doing since then up to the present? He has been arranging marriages. Is that His occupation? I too could do that. I possess many male and female slaves, and in a very short while I can join them together. He said to her, if it is a simple thing in your eyes, it is difficult to the Holy One, blessed be He, as dividing the Red Sea. He then took his departure. What did she do? She summoned a thousand male slaves and a thousand female slaves, set them in rows, and announced who should marry whom. In a single night she arranged marriage for them all. The next day they appeared before her, one with a cracked forehead, another with an eye knocked out, and another with a broken leg. She asked them, "What is the matter with you?" One female said, I don't want him.

(62) Sanh. 76a
(64) Sotah 2a

(63) Kiddushin 41a
(64) ~~Sanh~~ ~~76a~~

Another male said, "I don't want her". She forthwith sent for the Rabbi and said to him, there is no God like your God and your Torah is true. What you told me is quite correct. (65)

Absolute discretion is strongly advised by the Rabbis. They suggest that one should hesitate in selecting a wife. (66)

A man is forbidden to take a woman to wife without having seen her, lest he afterwards perceive in her something objectionable and she become repulsive to him. (67)

A prescription is made regarding the height and complexion of the individual concerned in marriage. The Rabbis advise that a tall man should not marry a tall woman lest their children be lanky. A short man should not marry a short woman lest their children be dwarfish. A fair man should not marry a fair woman lest their children be excessively fair. A dark man should not marry a dark woman lest their children be excessively swarthy. (68)

Knowledge was also placed at a premium and the Rabbis advocate that by all means the father of a daughter should marry her to a man of learning regardless of any economic sacrifices he is compelled to make. A man should sell all he possesses with the object of marrying the daughter of a learned man, for if he were to die or be exiled, he may be confident that his children will be learned; and let him not marry the daughter of an ignoramus, for if he were to die or be exiled, his children will be ignorant. A man should sell all he possesses with

(65) Gen Rabba LXVIII, 4
(67) Kiddushin 41a

(66) Yebamoth 63a
(68) Bechoroth 45b

the object of marrying the daughter of a scholar giving his daughter in marriage to a scholar. That is like uniting grapes of the vine to grapes of the vine, which is good and acceptable. But let him not marry the daughter of an ignoramus, because that is like uniting grapes of the vine to berries of the bush, which is something ugly and unacceptable. (69)

The term "holiness of marriage" is taken from the word kiddushin because the husband prohibits his wife to the whole world like an object which is dedicated to the sanctuary. (70)

INTERPRETATION OF TALMUDIC MARITAL CONSIDERATIONS.

Professor Tchernowitz in an article appearing in the *Hatkufah*, interprets the Talmudic concept of marriage regarding the status of husband and wife. He discusses a legalistic exhortation appearing in Kiddushin 71 which says: "no woman can marry against her will, and if she did marry against her will, the marriage is null and void". The Talmud does not discuss the will of the man and the effect of his compulsion in marriage. Moreover, the sages have previously decided that the will of a woman is not to be taken into consideration and that even if he were married against his will, the marriage relationship is not void.

The question arises, why should the right of woman be superior to that of man in regard to marriage? This question has never been answered or explained by the sages. Perhaps their concern was primarily with the woman because in accord-

69) Pesachim 49a

(70) Kiddushin 2b

ance with the Jewish law of divorce, she can only be divorced by the will of man. This is not true as far as man is concerned. According to the laws, he may divorce his wife against her will. We therefore determine that marital obligations are not imposed upon the man as he may divorce his wife whenever he sees fit. Perhaps the sages were more concerned about the woman in Israel as they were cognizant of the fact that woman is weaker than man and that it was customary at times to compel her to marry against her will. This of course, did not hold true in regard to man, and the sages therefore did not display much concern in his regard.

However, according to the law prevalent after the Talmudic period, man could not divorce his wife against her will. This is moreover substantiated by the Talmud. It thus follows that even in matters of divorce the wife's rights are far superior than those of man.

According to the letter rather than the spirit of the laws of the Talmud, a man can divorce his wife against her will and even compel her to accept the "get".

Professor Tenernowitz explains that this law was the result of the mores of the times in Oriental countries admitting of course, that it implied extraordinary cruelty and that it was contrary to moral law. He emphasizes however, that the sages in spite of this law, attempted to safeguard the woman. The enactment of many laws and the creation of limitations were put into force so that the man should not find it easy to divorce his wife. He substantiates this viewpoint by averring that marital contracts (Ketubah) were created for this very purpose. It is understood that in this period the rarity

of money and the reluctance of people to pay Ketubah debts acted as obstacles against a frivolous attitude towards divorce. Moreover, the sages enacted many laws regarding dowry, the purpose of which was to make divorce against the will of a wife more difficult. Professor Tchernowitz argues that if one is inclined to state that legally a man can divorce his wife against her will, then to balance the situation the wife has the same right to be divorced from her husband at times even against his will. He substantiates this theory by stating that the sages implicitly provided that a husband can be compelled to divorce his wife in case he becomes obnoxious, i. e., when one is stricken with leprosy, one who is stricken with halitosis, or one who is engaged in a very low undertaking such as street-cleaning or **leather manufacture-----**. The sages permitted the woman to exact divorce from the husband by stating "I despise him". This held even if she did not have a reason or special claim against the behavior of the husband, but simply that she despised him, and did not choose to live with him. This woman was classified as a rebel (Ketuboth 63). The sages felt called upon to enact laws so that such a woman would be compelled to remain with her husband.

In the Mishnaic period when penalties were usually paid in money, the sages decided that "she who rebels against her husband will lose seven dinars a week from her Ketubah. At a later period when public opinion was aroused in this direction, the rebellious woman would be penalized by public abuse and the sages provided that announcement in her regard be made on four successive Saturdays in all the synagogues

and academies in the community, that the wife of such and such is rebelling against her husband and that a court warning be sent her before and after these announcements are made. However, if she still continues to rebel, the sages delay the divorce and compel her to wait twelve months with the hope that during this period she may recede from her position and repent. However, in the time of the Gaonim, immediate divorce was permitted to a woman who made the statement "I despise him". The husband was compelled to repay her the dowry in full. The reason given for this situation was at that time, the Jewish people resided amongst Gentiles and it was feared that these women would be tempted to go astray. This law of the Gaonim served as the last step on the road to equality, regarding the rights and privileges of both man and woman, for from this time women was permitted to divorce her husband against his will as well as vice versa. Moreover, if the law of divorce by compulsion were abolished through the excommunication provision of Rabbi Gershon, perhaps we would be compelled to aver that the law forcing a husband to divorce his wife is still in existence. In the light of this discussion it seems that the wife's rights are far superior than those of the man, even in matters of divorce. Professor Tchernowitz then takes into consideration the will of a husband and wife in marriage regarding their respective status from the point of view of parental consent. He asks a pertinent question: whose opinion amongst parents should be most important, that of the father or that of the mother? The laws of Israel in this regard differ from that of other countries. In Jewish law it is not necessary to obtain the consent of parents as far as the law of marriage

is concerned. The only specific ordinance which may be applied to this question is the requirement to honor thy father and thy mother. The sages, however, insisted that this implication does not refer to the choice of a wife. They averred, that if a son took a wife against the will of his father, he did not violate this commandment.

However, when the marriage of the minor daughter is taken under consideration, it is the father's prerogative to give his consent. There is a law, however, distinguishing between the rights of a father and the rights of a mother. The father must arrange for the marriage of his minor daughter, but not for the marriage of his son. This holds true regardless of whether the minor daughter accepts or rejects the father's choice. The sages held that the marriage is valid even from the point of view of the Torah (Kiddushin 72) and the daughter cannot refuse even after reaching her majority. Undoubtedly this custom of marrying off a minor daughter by the father, was prevalent at that time, On the other hand, when the mother marries off her minor daughter, the daughter may refuse to cohabit when having reached her majority and the marriage is invalid. This is in accordance with a Rabbinic provision as specified in Yebamoth, Chapter 13. This proves that the old law gave supreme authority to the father, and not to the mother.

However, in a later period the law abolished marriages of minors and states "that it is prohibited to marry a daughter while she is a minor. She must mature and be in a position to say "I choose so and so (Kiddushin 49)-----.

FIDELITY.

One of the foundational obligations of the marital institution is fidelity. In its substance, the mores of a country will govern its laws. For instance, in Roman law, the husband does not perpetrate an act of infidelity if he has intercourse with an unmarried woman. On the other hand, he does manifest infidelity when he has intercourse with a married woman.... The meting out of punishment for misbehavior differs in most countries regarding a husband as distinguished from a wife. The early laws of Israel were rather harsh upon the woman as they were quite easy upon the man. The sages made no distinction concerning the behavior of a woman regardless of whether she had intercourse with a married or single man. When dealing with the husband they insisted that he be punished only when he misbehaved with a married woman and not when he had intercourse with an unmarried woman. If the man is to be punished at all, he is penalized for being uncouth and for lack of gentility rather than for infidelity. Where the law permitted monogamy the disgrace of the married woman is apparent. On the other hand he was permitted to do so or not there was no disgrace. Again if the husband sinned against the accepted concepts of morality, the offense is a religious one and his misbehavior cannot be brought before a court for consideration. However, since the law prohibiting monogamy came into affect, the rabbis became more severe in this regard and decreed that when a married man has intercourse with a single woman, his wife may compel him to divorce her. Thus since the various limitations

have been erected around the institution of marriage, the disgrace of woman with regard to infidelity has become more pointed whenever the husband misbehaves. The sages emphasized their stand that when the husband continuously indulges in this type of misbehavior, his wife has ample grounds to demand a divorce. At times, the sages have even stated that these grounds for divorce were sufficient even upon the personal confession of a husband himself. Thus we find that Talmudic law has evolved with the development of the morality of Israel.

CONJUGAL RELATIONSHIP.

Conjugal relationship is compulsory in equal degree upon husband and wife. It is fundamentally the essential purpose of marriage. If one of the parties of the marital union fails to fulfill this obligation, a gap is created resulting in the nullification of the marriage union.

The contrast with the laws of other countries which usually treat the subject with silence or make mention of it indirectly, the laws of Israel are emphatic in this regard and treat the subject in great detail and precision. This has always been characteristic of Jewish Law.

The cause of the accentuation of this element in marriage was not that the sages considered the material or physical life more important than the spiritual, as some scholars implied, but according to the version of the rabbis, no corner of life should be overlooked without the benefit of the legal process. The rabbis sincerely believed that the laws of life are affected

and influenced by the various elements entering into it. They ask a pertinent question; Why should not this obligation which serves as a fundamental purpose of domestic life and as one of its primary objectives be arranged according to law in case of conflict among married people? Is there disgrace in such a law? Moreover, they argue, according to Jewish opinion domestic life has a supreme moral and religious objective, and the exhortation to bring children into the world is one of the commandments of God to man. Through this institution, a man fulfills his duty to his Creator as He did not create the world a desolate place, but one to be inhabited. Therefore, the duty of conjugal relationship became a commandment and obligation upon husband and wife. Jewish law deals with it as with all other laws.

The sages prescribe an arrangement of conjugal relationship on a rational basis. They aver that the conjugal obligation is not equal among all men. It depends upon the profession or occupation in which he is employed. They prescribe for the individual whose vocation keeps him at home and for the individual who is compelled to absent himself periodically from his home. If his absence is compulsory, the sages reduce the husband's conjugal obligation and vice versa. They therefore explain: "In the case of sailors who are wont to sail at high sea for a long time, their conjugal obligation is once in six months, etc. (Ketuboth 61).

Undoubtedly, the law followed as in all cases the custom prevailing in those days.

The obligation of conjugal relationship is

upon the husband. Rules were not set down for the wife. Thus the regularity of conjugal fulfillment became an obligation upon the husband and a right of the wife.

In places where monogamy was not the custom, it was understood that this law was strictly applied to the husband so that the right of the wife should not be deprived. As a result of this obligation and right of the wife, the husband was not permitted to change his profession to another, especially when his former profession kept him at home and the latter compelled him to wander from place to place. The permission of the wife to make this change of profession is necessary. (Schulchan Oruch 8).

Another passage dealing with this subject reads as follows:

"And so it is necessary for her to prevent him from changing from a profession which grants her frequent conjugal rights to such where the right is rare, as a donkey trader is changed to a camel trader, or a camel trader changed to a sailor." (Ibid 5)

In general from the point of view of law, the husband has no right to go out on the road even for business without her permission for one week. If, however, the husband disregards this duty without the permission of his wife, she can demand a divorce unless she consents to remain. The rabbis may impose upon the husband an added sum of money over and above his wife's ketubah, as long as he insists upon his denial of her conjugal rights. The sages go a step further. They compel the husband to divorce his wife even if she were aware before marriage that she would be denied conjugal rights. If she makes a statement

"I thought that I would be able to stand it, but now I realize that I cannot". As a result, severe illness causing deterioration of the body due to the infrequency of conjugal relations, provides the woman with the right to demand a divorce (Ketuboth 76).

Likewise a husband may divorce his wife when she is ill and is not capable of assuming conjugal obligations even if he were obligated to cure her. This is the law. The sages say, however, that this is not proper, neither is it humane (Rambam, chap. 4 Domestic Law). In this regard the rabbis provide more leeway to the woman than to the man.

OBLIGATIONS AND RIGHTS OF THE MARRIAGE RELATIONS.

Rabbinical law elaborates in detail the various responsibilities incurred by husband and wife upon entrance into marriage. The Talmud prescribes certain specifications which become religious legalisms.

OBLIGATIONS OF THE HUSBAND.

The Rabbis expatiate on an injunction found in Exodus XXI, 10, her food, her raiment and her conjugal right shall he (the husband) not diminish. They clarify this passage by developing the following principles:

- 1) To furnish his wife with the necessities of life, including food, clothing, dwelling.
- 2) To have conjugal cohabitation with her.
- 3) To provide suitable medical care and nursing when she is sick.

4) To protect her and to ransom her in the eventuality of her falling into captivity.

5) To provide for her burial in case of death. The extent of the obligation concerning her food, clothing and dwelling depends upon his fortune and situation in life, and also upon the local customs. If he become poor, she must be content with his modest way of living. In case of necessity, he is according to some authorities, bound to hire himself out as a day laborer in order to gain the means of supporting his wife. (Eben Ha Ezer, LXX, 30). But a man of wealth is under obligation to maintain his wife according to his fortune without regard to lower situation in life before marriage. In this respect, it is a Talmudic maxim. "The wife ascends with her husband, but does not descend with him". That is to say, she is entitled to all advantages of his standing in society, without losing those which she enjoyed in her parental home. (Talm. Ketuboth p. 61).

Generally the wife is to receive her board in her husband's house, at his table, but in the case of her lawful absence it is his duty to provide her with the necessaries of life in that place where she abides (Eben Ha-Ezer, 12).

A husband neglecting to maintain his wife can be compelled by court to fulfill this duty.

If he deserted his wife without making provisions for her support, the court adjudicated to her an alimony from his property (Eben Ha-Ezer, Chapt. 5). He is also liable for the refunding of amounts which she in her absence, borrowed for her actual support, on his account, though he had given public notice not to trust her (Ibid. Chapt. 8 and 12).

But if a third man furnished a married woman with the necessities of life, he has to use a rabbinical phrase, "Put his money on the horn of a deer, that is, he has lost his money as he cannot maintain an action at law against the husband for the outlay (Mishna Ketuboth XIII, 2). It is added there, that the priestly court in Jerusalem (probably a kind of court of equity) differed on this point holding the husband to be liable. As an interesting parallel to this difference of view between common courts and courts of equity regarding a similar case, as treated in modern times, we shall quote here the following from Bishop's "Marriage and Divorce", II, 612, fourth edition: "Money may buy necessities, but it is not such in itself. Therefore, if a man lends to a married woman, whose husband being under obligation to furnish her necessities, neglects to do so, money which she actually spends this way, he cannot maintain an action at law against the husband for the money....But in equity, that is, in that form of legal proceeding which is carried on in a court of equity, in distinction from a court of common law, the person who lends the money to the wife with which to buy necessities, can recover the money, on showing that it has been so expended in fact."

The husband is not answerable for the wife's debts contracted before her marriage, nor for those which she incurred afterward without his authority. Nor is he liable for her torts and crimes. If she has no separate property, all judgments against her for debts, torts, fines, etc., remain a claim against her, which she is to pay from her dowry when becoming a widow or divorced (Eben Ha-Ezer XCI, 41 (Choshen Mishpat, Chapt. 349). It must be remembered that, by the

Jewish Law, the husband is merely a usufructuary of his wife's property; hence he cannot be chargeable for her debts, torts, fines, etc., It is different in the modern, especially the common law, in which the principle is established by which "the husband and wife are regarded as one person, and her legal existence and authority in a degree lost or suspended, during the continuance of the matrimonial union." This principle rests in the husband whatever personal property belonged to the wife before marriage, and throws upon him, during coverture, all obligations of the wife, so that he is answerable for her debts before coverture, and liable for all her torts and frauds committed during coverture.

Concerning the duty of ransoming the wife in the case of her falling into captivity, it must be borne in mind that the frequent invasions of Bedouins in the Oriental countries and the continual wars in Europe during the middle ages made the express provision for such an eventuality quite necessary. The husband was in such eventuality under obligation to ransom his wife, even at the expense of an amount far beyond that of her dowry (Eben Ha-Ezer LXXVIII, 3).

The duty of providing for the wife's burial includes also that of providing for a tombstone and for funeral solemnities, according to his and her standing in society.

LEGAL RIGHTS OF THE HUSBAND.

The sages have attempted to evolve an equitable consideration of the legal rights of a husband. These rights are, of course, especially adapted to the period in which they were

created.

The husband's rights are in accordance with Jewish Law, as follows:

1) He is entitled to whatever she may earn by her labor and industry.

2) He is entitled to whatever she may gain by chance.

3) He is entitled to the usufruct of all the property which she brought into marriage, as her portion, and of the property she during her coverture received by inheritance.

4) He becomes sole heir on her death.

5) His right to her earnings is regarded as the consideration for his duty of supporting her. Hence, if she, of her own free will renounces her claim of being supported by him, her earnings are her own and can be held free from the claims of her husband. But the husband cannot compel her to live on her own earnings by such a settlement. (Eben Ha-Ezer LXIX, 4).

OBLIGATIONS AND LEGAL RIGHTS OF THE WIFE.

On marriage, the wife takes the domicile of the husband. If he afterward changes his domicile, she is to follow him, but she cannot be compelled to follow him into a foreign country where a different language is spoken. She can also object to his removing to another place which in sanitary respects or in regard to comfort is inferior to her present abode. But if it is impossible for him to make a living in his former place of residence, it is her duty to follow him (Ketuboth, p. 110; Maim Ishbuth XIII, 13; Eben Ha-Ezer LXXV).

It is in general the wife's duty to manage the house-

hold, to engage in the female work of domestic life such as cooking, baking, sewing, etc. It is also her duty to nurse her children, generally, herself. Even if able to keep many servants, she is not permitted to live in idleness, as "idleness leads to sin." Under all circumstances, she has personally to perform certain services of loving care for her husband's ease and comfort (Ketuboth p. 690; Maim Ishuth XXI; Eben Ha-Ezer LXXX).

The rights of the wife are implied in the husband's duties, treated as above.

By Jewish law, the wife does not succeed to her husband's estate on his death, but receives the portion which she brought into marriage, and besides, the dowry fixed in the Ketubah. As long as the widow does not claim the amount of her dowry, and as long as she does not remarry, she has the right to remain in her deceased husband's house and be supported by his legal heirs in the same way as she was accustomed during his lifetime.

PROPERTY OF THE WIFE .

The Rabbis have clarified the wife's property as Dotal, Paraphernal and strictly private. They define this property as follows:

(Maim, Ishbuth XIX, 21; Eben Ha-Ezer XCIII, 4 and gloss.)

(1) Dotal property (Hebrew, Nedunja), that is her portion consisting in money, goods or estate, which she brings to her husband in marriage. The total value of this property was usually mentioned in the marriage deed, with the express or implied understanding that the husband be responsible for this amount.

(a) Dotal property vests in the husband as trustee for the wife. He is entitled, however, during marriage, to take and use the rents, fruits, and profits thereof. His are also its betterments. But he is also responsible for the loss, damage and deterioration of that property. At the dissolution of marriage by his death, or by divorce, it is to be returned to her in that condition in which it was, or with that value which it had at the time when vested in him. In contradistinction to the second class, this property is termed, in the Talmudic Law, Tson Barzel (Pecus ferreum) - property of iron sheep, as it was like sheep, from which profit (the wool) is derived, and, on the other hand, it resembled iron, in so much as its substance could not be destroyed nor its value deteriorated.

(2) Paraphernal property, that is, whatever she either brings into marriage above the dotal property, and which she reserves for herself under her own responsibility, or the property which she, during marriage acquires by inheritance or by gift, grant or bequest from any person other than her husband.

(b) Regarding the paraphernal property, the husband is likewise entitled to all the fruits and profits derived

therefrom, but he is not responsible for its loss and deterioration. Upon his death, or in case of divorce, this property returns to her in that state in which it is found at that time.

(3) Her strictly private property, that is, property which her husband donated to her during marriage, or which a third person donated to her with the express condition that it be exclusively for her own use for certain purposes.

(c) The property characterized as the wife's separate estate is beyond her husband's control, and the rents and profits thereof are not subject to his disposal. She is, however, not permitted to alienate the substance of marriage, as he is entitled to inherit it on her death (Eben ha-Ezer LXXXV, 7).

The wife being the owner, and the husband the usufructuary of the dotal and paraphernal property, it is not subject to the debts or damages. Such property can be sold or transferred to a third person only with the joint consent of both husband and wife.

The husband is permitted to sell his usufruct of that property, but for a limited time only.

In any lawsuit against third persons concerning the substance of such property, the husband needs a power of attorney from his wife to act in her name. Such power of attorney is, however, not required where the action concerns the profits of the property only. (Ibid, chapt. 4).

LEVIRATE MARRIAGE.

In the interpretation of Deut. XXV, 4-13, which states that the widow whose husband had died childless, leaving however, a brother, is not permitted to marry a stranger, unless the surviving brother declares that he is not willing to marry her and submits to the prescribed formality termed chalitzah, the sages have qualified this passage of Scripture with the following explanation:

From Genesis XXXVIII, 8, where Aaron is called upon to marry his brother Er's widow, it is evident that already in the patriarchal period it was an established custom that in case of a man having died without children, his surviving brother was in duty bound to marry the widow. The Mosaic code retained this custom, so that the general prohibition of marrying the brother's wife (Lev. XVIII, 16) was set aside in case that brother had died without descendants, in which case it was regarded as a duty incumbent on one of the surviving brothers to marry the widow in order to retain the name and family property of the deceased. Such a marriage is termed Yibbum. The purpose of the Levirate marriage was obviously to avert the extinction of the name of him who died childless, "that his name be not put out of Israel." Besides, it stood in connection with the ancient agrarian law in Israel, which tended to retain all property intact within each tribe and family. The brother-in-law, in marrying the widow, became the sole heir of her deceased husband's estate, which other-

wise would have to be divided among all his brothers, who in this case, were the legal heirs.

In retaining this ancient custom, the Mosaic Law modified the former strictness thereof permitting escape from that obligation, which under certain circumstances might be onerous and even repugnant. The surviving brother could refuse to marry that widow, but had to submit to the ceremony of chalitzah which was of a somewhat stigmatizing character. The ceremony described in Deut. XXV, 7-10, consisted in this, that after the surviving brother had declared before the court his unwillingness to marry the widow, she was directed then to loose his shoe from off his foot, spitting before his face and saying: "So shall it be done unto that man that will not build up his brother's house."

This formality having been performed, the widow was at liberty to marry a stranger.

The law concerning the Levirate marriage and the act of chalitzah is very minutely elaborated in the Talmud, and in the Rabbinical codes (Tal. Yebamoth; Eben Ha-Ezer, chaps. 156-176).

A divergence of opinion is expressed in the Talmud, as well as among the post-Talmudic authorities, as to whether Yibbum or Chalitza is to be preferred, that is, whether it is better for the surviving brother to fulfill the duty of Levirate marriage or to submit to the punishment for non-fulfillment; because it was considered doubtful that he who marries his brother's widow with other

than the purest motives is not actually committing incest (Yebamoth 39b; Dechoroth 13a; Eben Ha-Ezer 165).

The Levirate marriage having been found in many cases very onerous and, especially since the abolishing of polygamy, often impracticable and impossible, it fell more and more into general disuse, so that the ceremony of Chalitzah took its place, by which the widow received the permission of marrying a stranger.

To prevent the brother-in-law from exacting conditions from the widow who wished to be liberated from the restriction to her new marriage, it became customary that at the wedding of a young couple, the brothers of the bridegroom were induced to sign a document (termed sh'tar chalitzah) declaring that, if circumstances should require it, they would execute the ceremony of chalitzah without any claim of remuneration (79).

POLYGAMY.

In the early rabbinical period polygamy was perhaps tolerated until an express prohibition of polygamy at the convening of the Rabbinical Synod at Worms, under the celebrated Rabbi Gershom ben Juda, in the beginning of the eleventh century (see Eben Ha-ezer I, 10). Though this prohibition was originally made for the Jews living in Germany and Northern France, it was successively adopted in all European countries. Nevertheless, the Jewish Marriage Code retained many provisions which originated at a time when polygamy was still legally in existence.

(79) Mielziner, M. "The Jewish Law of Marriage and Divorce" pp. 54, 55, 56, 57

The consequences of retaining such antiquated provisions will be seen in the following instance according to modern law, strictly based on the principle of monogamy, a prior subsisting marriage of either of the parties renders the second marriage absolutely null and void. But according to the rabbinical code, a distinction is made between the case of the man and that of the woman. If marriage is contracted with a married woman whose husband is still living, that marriage is certainly null and void from the beginning. (Eben Ha-Ezer XVII, 1).

CHASTITY.

Chastity was one of the basic considerations of the sages. This is accentuated in regard to the divorced wife. The Rabbis elucidate as follows:

(1) The Divorced Wife.

According to the Mosaic Law a man is not permitted to marry his divorced wife who had married a second time and became a widow, or been divorced from her second husband (Deut. XXIV, 4; compare also Jeremiah III, 1. According to Nachmanides, this law was intended to prevent the immoral practice of exchanging wives, which practice prevailed among ancient nations).

Neither according to Rabbinical Law, is a man permitted to remarry his former wife whom he divorced on the express ground of her bad reputation or on account of her barrenness (Mishna Gittin IV, 7, 8; Maimonides Gerushin X, 12, 13; Eben Ha-Ezer X, 3).

(2) The Adulterers.

He who had committed or was under strong suspicion of having committed adultery with another man's wife is not permitted to marry her in case she becomes divorced from her former husband or be left a widow (Tal. **Sota** 25; Yebamoth 24b; Maim. **Sota** III; Eben Ha-Ezer XI, 1).

(3) Suspicion.

Whoever assisted at a divorce as a witness or agent is according to the Rabbinical Law not permitted to marry the divorced woman, if the circumstances justify the suspicion that his cooperation was prompted by the intention to marry her. For a similar reason, he who testified to the death of an absent husband cannot marry the widow of that husband (Talmud Yebamoth 25a; Maim. Gerushin X, 14; Eben Ha-Ezer XII, 1,2).

(4) Mamzer.

The word, "mamzer", usually translated bastard, denotes according to Rabbinical interpretation, one born of incest or adultery. The Mosaic Law; "A mamzer shall not enter into the congregation of the Lord" (Deut. XXIII, 3) is explained to mean that neither persons born of incest or adultery nor any of their descendants are permitted to marry Israelitish women, and that an Israelite is not permitted to marry a female mamzer or a woman descended from a mamzer (Talm. Yebamoth 49a; Maim Issure Biah XV, 1; Eben Ha-Ezer IV, 1, 13).

A marriage between a mamzer and a female mamzer or between either of them and a proselyte

is not objectionable. (Eben Ha-Ezer IV, 22, 24).

Foundlings and persons whose paternal descent is unknown are regarded in the rabbinical law as doubted mamzers and subject to the same restrictions as an undoubted mamzer.

On account of their doubtful character such persons are not even permitted to intermarry, but their intermarriage with proselytes is not objectionable. (Talm. Kiddushin 74a; Eben Ha-Ezer IV, 36;).

(5) Spadones.

Persons violently or artificially emasculated are according to the rabbinical interpretation of Deut. XXIII, 2, disqualified from marriage with an Israelitish woman (Tal. Yebamoth 70, 75; Eben Ha-Ezer V, 1-10).

DIVORCE.

The Rabbis have not only analyzed the institution of divorce and its accompanying evils, but they describe the restrictions of the right of divorce and its specific causes. In their clarification of this perplexing institution, they explain that the interpretation of the expression "some uncleanness" (Hebrew, Ervath dabor - literally, "the nakedness or shame of a thing"), used in the Mosaic Law as the ground of divorce, is a point on which the schools of Shammai and Hillel, flourishing in the last century of the second Jewish Commonwealth, widely differed. The former school took that expression in an ethical sense, and consequently limited the

husband's right of divorce to the case of a moral delinquency or unchaste demeanor in the woman; while the school of Hillel, understanding the expression to relate to anything offensive and displeasing, permitted divorce for any cause that might disturb domestic peace (Talmud Tittin 90a).

In legal respects, the opinion of the school of Hillel prevailed; but divorce was morally disapproved of by the rabbis in general. This disapproval found expression in the two sentences: "He who divorces his wife is hated before the Lord, and "Tears are shed on God's altar for the one who forsakes the wife of his youth".

For the protection of woman, several rules were adopted which prevented inconsiderate divorces. Such a preventive was in many cases, the institution of the Kethuba, which secured to the wife a certain dowry in the case of divorce, as also in the case of the husband's death. Also numerous and minute regulations concerning the formalities in writing and handing over the document of divorce were mostly calculated to render the act difficult and prevent passionate haste on the part of the husband.

Besides, provisions were made to secure the rights of the wife, so as to entitle her to a divorce in certain cases.

In the eleventh century, Rabbi Gershon, one of the most celebrated rabbinical authorities of that time, to whom also the abolishing of the last vestiges

of polygamy among the European Jews is ascribed, enacted the law interdicting the divorcing a wife against her will, except in certain cases, which will be specified further on.

There are, by rabbinical law, four kinds of divorce, which in some respects are treated differently, though the form of the bill of divorcement is to be the same in all cases.

1. Divorce by mutual agreement of the parties. In this case the wife is entitled to receive the dowry fixed in the Ketubah.

2. Divorce enforced upon the wife on the petition of the husband. Whenever the court, after having examined the causes of the complaining husband, grants such a divorce, the wife as the guilty party, forfeits her dowry.

3. Divorce enforced upon the husband on the petition of the wife. When the causes of the complaining wife are found to be sufficient to entitle her to divorce, the husband is compelled to give her the bill of divorcement and to pay her dowry.

4. Divorce enforced by court, without petition of either of the parties. In certain cases, the Jewish court compelled the husband to divorce his wife, though both parties desired to continue their marriage.

SPECIFIC CAUSES OF DIVORCE.

With reference to the four kinds of divorce just mentioned, the specific causes may be set forth as follows:-

(a) Mutual agreement.

In the case of mutual agreement, no specific causes are required. According to a principle of the Rabbinical law, the court has no right to interfere where both parties declare that their marriage is a failure, and that they have come to the conclusion to dissolve their unhappy and burdensome relation.

(b) The Husband's Causes. The husband is entitled to divorce:

1. On account of the wife's adultery and even on strong suspicion of her having committed this crime. (Eben Ha-ezer, CXV, 7).

2. On account of her public violation of moral decency (Tal. Ketuboth, p. 72; Eben Ha-Ezer, CXV, 4; and CXIX, 4).

3. On account of her change of religion or proved disregard of the Ritual law in the management of her household by which she caused him to transgress the religious precepts against his will. (Eben Ha-Ezer CXV, 1-4)

4. On account of obstinate refusal of connubial rights during a whole year. (Eben Ha-Ezer LXXV, 1).

5. On account of her unjustified refusal to follow to another domicile. (Eben Ha-Ezer, LXXV, 1).

6. On account of insulting her father-in-law in the presence of her husband, or for insulting the husband himself (Eben Ha-Ezer CXV, 4).

7. On account of certain incurable diseases, rendering cohabitation impracticable or dangerous,

as epilepsy, etc.

c. THE WIFE'S CAUSES.

The wife is entitled to a divorce:

1. On account of loathsome chronic diseases which the husband contracted after marriage or,

2. On account of a disgusting trade, in which he engaged after marriage, the same being of such nature as to render cohabitation with him intolerable (Kethuboth p. 75; Eben Ha-Ezer OLIV, 1).

3. On account of repeated ill treatment received from her husband, as for beating her, or turning her out of doors, prohibiting her from visiting her parental home. (Eben Ha-Ezer, OLIV, 3.)

4. On account of his change of religion. (Eben Ha-Ezer OLIV, 3).

5. On account of his notorious dissoluteness of morals (Ibid, chapt. 1)

6. On account of wasting his property and refusing to support her. (Ibid, chapt. 3).

7. On account of having committed a crime, compelling him to flee from the country. (Ibid, chapt. 9).

8. On account of his physical **impotence**, if admitted by him, and, according to some authorities, also on account of his persistent refusal of matrimonial intercourse. (Eben Ha-Ezer OLIV, 7)

d. Divorce enforced by Court Against

The Will of Both Parties.

Under Jewish jurisdiction, such a divorce,

without the application and desire of either of the parties, was formerly enforced in the following cases:

1. Where a marriage had been contracted which, though formally binding, was regarded voidable on account of being against a Rabbinical Law prohibiting such a marriage. (Talm. Kethuboth, p. 77; Eben Ha-Ezer, CLIV, 20).

For instance, if a man remarried his divorced wife after her second marriage; or if he married within those degrees prohibited only by the Talmudic extensions, as his maternal uncle's widow.

This, however, did not apply to the incestuous and adulterous marriages expressly prohibited in the eighteenth chapter of Leviticus, as these were regarded as a nullity, requiring no formal divorce.

2. Where the husband was willing to continue his marriage, though the wife had been found guilty of wilful adultery. (Eben Ha-Ezer, XI, 1, CXV, 8).

It must be remembered that, according to the view of the Jewish Law, adultery is regarded not merely as misconduct and private injury, which may be condoned by the offended party, but as a crime which invalidates the moral foundation of marriage, so as to make its continuation absolutely impossible.

3. Where sanitary considerations did not permit the conjugal cohabitation, as, if one of the parties became affected with the incurable disease of leprosy. Divorce was, however, not enforced in such a case where the other party consented to continue marriage without

cohabitation. (Eben Ha-Ezer, CLIV, 1).

4. According to the view that procreation is one of the principal ends of marriage, divorce was anciently enforced also in the case of a marriage, which, after existing ten years, had proved to be childless. Later authorities, however, disapproved the enforcement of a divorce in this case. (Eben Ha-Ezer, Ibid, chapt. 10).

PROHIBITIONS ON ACCOUNT OF RELIGIOUS
AND OTHER CONSIDERATIONS.

The Mosaic Law prohibits intermarriage with certain Canaanitish nations, seven in number; "Thou shalt not make marriages with them, thy daughter shalt thou not give unto his son, and his daughter shalt thou not take unto thy son." As a motive for this prohibition is added: "For they will turn away thy son from following Me, to serve other Gods". (Deut. VII, 3, 41).

Actuated by this motive, and at the same time, by the desire to preserve the purity of the Jewish race, Ezra and Nehemiah extended the Mosaic prohibition of intermarriage so as to include all the pagan nations of the country, and with great rigor compelled those who had entered such marriages to separate from their heathenish wives. (Ezra IX, 1, 2; X, 10, 11) Nehemiah X, 31; XIII, 23, 25.)

In the spirit of Ezra's ordinance, later religious authorities in the time of the Maccabeans and in the time of the wars against the Romans, interdicted matrimonial connections between Israelites and Gentiles and this pro-

hibition is the established law of the Talmud and the Rabbinical Code (Talm. Aboda Zora, 31b; Maim. Issure Biah XII, 1; Eben Ha-Ezer XVI, 1).

A difference of opinion exists only as to whether the prohibition of intermarriage with any of the other nations besides those seven expressly mentioned in the law (Deut. VII, 3) is to be regarded as Mosaic or only rabbinical (Kiddushin 68b).

After having embraced the Jewish religion, Gentiles are fully admitted to intermarriage (Maim. Iss. B. XII, 22, 25; Eben Ha-Ezer, IV, 9, 10).

No special provision is made in the Rabbinical Law concerning intermarriage with Christians. These, though in other respects not regarded as heathens (Chulin 13b), were actually included in the general prohibition of intermarriage with Gentiles. On the other hand, the Christian emperors and the Canonical Law strictly interdicted all marriages between Christian and Jews. (85)

A TRANSPOSITION INTO THE MODERN AMERICAN ENVIRONMENT.

It is true that the modern Jewish family has not entirely substantiated all the laws and customs as provided by tradition. Yet in the main, there is an

(85) Mielziner, M., "The Jewish Law of Marriage and Divorce", pp. 45-46

attempt to perpetuate the spirit if not the letter of the law. The changing of the environment in America has curtailed many of these traditions. The interpretation of Judaism is represented by the ultra-Orthodox, Orthodox, the Conservative, and the Reform wings.

The manner of observing many of these traditional regulations is a matter of degree with these factions. However, the Jew has carried over the spirituality and the profound respect of the home. In America, through a process of social assimilation, many of these institutions have been neglected or discarded.

Pauline Young describes the situation as follows:

"The Jewish family arrives in America with a distinctive culture, a set of social attitudes and values which are deeply rooted, long cherished, and sanctioned by the religion and the mores of the group. The Jews of Europe, and especially those of Russia, and Poland - having been isolated for long periods, because of legal restrictions upon residence, vocation and religion, developed a highly organized closely knit social and religious life, open to relatively few outside influences. In Europe the Jewish family is an institution strongly governed by tradition in which the rights of the family are supreme. The family group takes great responsibility for the individual and he in turn is expected to conform to family traditions. From earliest childhood, Jewish youth in Europe participate in family ceremonials and festivals in which the history and tradition of the group

are rehearsed; all members are effectively united in spirit and thought at frequent intervals by family ritual. The sons attend cheder and Talmud Torah (religious schools) in which the mastery of the sacred books, the history, and written tradition are stressed. These religious schools are age-old institutions and have for long been the seat for Jewish learning among both the rich and the poor. We rarely find a Jewish immigrant who was not educated in Hebrew in the old country. Not to have such a training, classified one as a grober jung (a boor). In America, the isolation of the group is largely broken down, but immigrant families, nevertheless, remain in close contact with their fellow countrymen.

The Jews lead a life distinct from that of the surrounding nations not merely in religious observance, but in every other sphere of human endeavor and aspirations. They confine their social intercourse for the most part to themselves; they organize their own education, support their own charities, pursue their intellectual ideals, though into the midst of all this collective activity, echoes and elements of the national life around them penetrate slowly and subtly....

The atmosphere is charged with the Jewish spirit, the environment is studded with Jewish institutions, synagogues, great and small, little private schools tucked away in back rooms, religious courts of judgments, libraries, baths, hospitals, theatres, clubs for working men, for boys...these and countless other in-

stitutions make up for the compact variegated fabric of the modern Ghetto....The influence from without penetrates slowly, subtly, inevitably, bringing the Jews into the outer world.....

Jewish family life is intimately associated with religious life through ceremonials, dietary laws and so on. Among the Orthodox Jews an inevitable conflict results over Sabbath keeping. Orthodoxy is very inconvenient, intolerable to persons who have not been bred into it. The situation may often become a source of irritation to the children. The old traditional controls tend to break down under the conditions of American life before the new controls are firmly established. This results in an interval during which no systematic code prevails. This is the "danger period" during which much personal disorganization tends to occur. Some immigrants never come under the control of the American code after losing their native-culture code. The degree of change and adjustment to the new environment depends largely on the nature and extent of the outside contacts made by the Jewish home in America and on the intelligence of its members. The individual persons of the immigrant home frequently travel from one cultural world to the other, and some degree of reorganization of home life is inevitable.

Time smooths out a great many differences. Accommodation within the home occurs as soon as the opposing elements become accustomed to dealing with each

other satisfactorily in spite of their many differences. The parents are inclined to adapt themselves to the changed conditions and the resultant new life, as soon as the children become rooted in the economic world. Thus with the children independently established, a certain prestige attaches, and the entire family basks in the glory of the reflected sunshine of success. The wide gulf between parent and child is forgotten and seemingly bridged. It seems important to note that a process of accommodation and readjustment to Jewish home and communal life occurs on the part of the child as he grows older and begins to seek recognition in other groups. Parents and children seem to meet each other half way in their process of adjustment. While they have the same civil privileges and encounter no legal restrictions, they find it frequently impossible to conceal their origin. The attitudes of other people are such that they compel them to realize that they are Jews, and that they belong "where they come from". Even in such cosmopolitan groups as the school, the second generation Jew encounters some antagonism. He looks upon school as a chief road to success and higher status. The success motive, the energy, the reverential attitude toward learning and the scholarship tradition, the superior ability are factors in the conflict. (86)

(86) Young, Pauline, V., "The Reorganization of Jewish Life in America, Vol. 7, pp. 238-243

A MODERN IDEOLOGY OF THE FAMILY INSTITUTION

Chapter II

Proper orientation of the Jewish arbitrator is a necessity to various modern conceptions of the family and marriage. As the Rabbi is to be a functionary dealing with intricate problems arising out of abnormalities existing in the home, due to intellectual, physiological, sociological and psychological differences, he must be acquainted with the basic causes which bring about and aggravate these situations.

The modus operandi required for a clear understanding of family complications has been subject, of late, to a great deal of constructive criticism. Lindquist, in discussing the question of method and approach as applied to the family institution, declares:

"In the present era there is an increased emphasis upon factual and inductive studies in all of the social sciences; as a consequence, there arises the question of approaches, methods, and specific procedures which can be used satisfactorily for scientific studies of the family. The universality of this institution limits the amount of reliable knowledge that can be secured. The very closeness to family life of practically every investigator, often unconsciously, by group mores and personal experiences make manifold the difficulties of conducting research. As in other studies of social phenomena, and more particularly in the case of the family,

the elements and processes cannot be subjected either readily or easily to the critical analyses that are possible for the student in a chemical laboratory who is endeavoring to discover the physical and chemical properties of a new compound....The historical method is useful in presenting what has been, but direction and control of a changing economic order, to the end that human beings may live most happily and **helpfully** here and now, require, in addition, descriptions of the present situation. (1)

AS A SOCIAL GROUP.

It has become a commonplace observation that the family is a social group whose members constitute a "unity of interacting personalities". (a) In other words, the normal expressions of the unity of a family takes the form of an integration of its members into a social group. Husband and wife, through marriage, form such a group, and the basic solidarity and continuity of the group's existence, whether children are born to the union or not, is primarily based upon stability of the marital relationship. The stabilized family as a unity of interacting personalities possesses the following characteristics:

(1) The subordination of the members to a common objective. This common objective may be chiefly economic,

(1) Lindquist, Ruth, "The Family in the Present Social Order", pp. 170-171.

(a) Professor E. W. Burgess, "Family as a Unity of Interacting Personalities", March, 1926

it may center about the education of the children, if they exist, it may concern the realization of a social ideal of mutuality of attitudes between its members, it may be conceived as service to the State or to the Deity, or it may be directed toward the preservation of family traditions and social status.

(2) The conscious cooperation of its members to realize their common objective.

(3) A reciprocity of personal services by which each member becomes dependent upon the other members, the entire group representing an interdependence of activities of an intimate and mutual character.

(4) A coordination of the roles of the members of the family in terms of obligations and privileges, such that each member assumes a positional relationship or status to every other member which defines his duties and permits, within limits, the personal satisfaction of wishes.

(5) Participation of the family in a social or communal world by which the family plays a role and secures a positional or status relationship of prestige in reference to other families.

(6) A consensus of emotional attitudes in which each individual member more or less harmoniously relates his life to that of every other member and to the group as a whole. In relation to other members, the attitudes are those of affection, sympathy, and respect, to the group as a whole, the attitudes are those

of loyalty, pride and responsibility. (2a)

AS A SOCIAL FORCE.

The correlation between the social attitude of the individual and the society in which he commingles. is as true today as it was about primitive people. In western civilization, the environment has become complex due to the industrial revolution and the general trend influenced by intellectual advancement. This state of flux has wrought changes which are comparable to the status of the individual. These phenomena must be recognized in dealing with the varied factors which arise among people who have undergone the trying experience of having changed their domicile from one country to another. In "Family Adjustment and Social Change", we are told that it is just as true in highly organized society as among primitives, that the young learn by tradition, imitation and authority. The constant repetition of petty acts, and the response of individual members of the family group, whenever a situation arises, gradually establish a habit pattern in the individual. When he advances to the point where he attempts to explain his actions, perfectly logical reasons may be brought forth, which the individual sincerely believes accounts for his reactions. Hence, the customs, manners and attitudes of the family gain additional force by becoming habit patterns of the in-

(2a) Kreuger, E. T., "A Study of Marriage Incompatibility"

dividual and carry implications of societal welfare. (2)

STANDARD OF LIVING.

An identical situation occurs when we evaluate living **standards** in the light of their effect upon our social attitudes. The post war period has developed a perplexing situation in the homes of the American family wherein the economic **gauge** has created havoc and chaos because of the difficulty which families have exercised in balancing their disbursements with their income. It is not surprising to behold that this problem very gravely affects the social structure of the family and it completely colors the philosophy of life of its constituents. Elmer, accentuates this version of the status of the modern family by stating that the **gauge** by which we most frequently measure the status of family life is called the Standard of Living. This so-called standard, is usually interpreted in terms of economic values. The economic phase, however, is only one aspect of sociological measure of the standard of living of a family. The family life must be considered in its functioning with respect to the lives of its members. It is in this that the family, by its influence upon the individuals of which society is composed, plays a part in social control. When we consider the standard of living of a family, we

(2) Elmer, Manuel Conrad, "Family Adjustment and Social Change", p. 2

include all things which make up the life in the group of which we are a part, and which are based upon our present understanding of the results of human experience... It is now generally understood that when we speak of standard of living, we refer to that evaluation of life which includes whatever is held to be essential to one's best functioning as a member of the group. The plane, or the degree to which this standard is met, is determined by many conditioning factors. (3) Bernard contends that, "we have planes of living rather than standards of living prevailingly operative in our society. These planes of living have been determined by a vast multitude of factors. The folkways, the mores; the customs and traditions of society account for many of the elements in them. But the competitive nature of our society, the incessant rivalry of individuals and groups, accounts for possibly as many more. (4)

A BIO-SOCIAL PURPOSE.

Reproduction is recognized as the fundamental guaranty for the perpetuation of the race. Historically, this is true of the tribe, the family and the state. However, there are social implications involved which

(3) Ibid. 265-266

(4) Bernard, L.L., "Standards of Living and Planes of Living" Social Forces VII, pp. 190, 202.

have not only fortified the family, but made its existence possible. We therefore concede that even though the family has a biological basis, its ultimate purpose results into a socializing agency. This theory is substantiated by Groves, who explains that, the family had in its beginning a biological purpose. It came into being to provide offspring with the protection necessary for physical survival. As a biological institution the family may be found in simple form among the higher animals. For man, however, it has come to have a larger function. Not only has there been an enlargement of its original task; it also has developed a social purpose which has given it a complexity and significance characteristic of the human type of family life. It does more than minister to the physical needs of children; it serves society by its effect upon the various members of the family who live together within the home, and particularly by its influence upon the personality of the growing child. Thus, the family has become of primary importance as an effective socializing agency. It is chiefly through the family that culture is transmitted from generation to generation... From parent to child, the fundamentals of culture, traditions, mechanical processes, social habits descend, and in this manner the continuity of social life is assured. (5)

This theory is also supported by Gillette, who

(5) Groves, Ernest R., "Social Problems of the Family", p.1.

claims that there are good reasons to believe that the first general function of the family is the physical reproduction of society. First, in order that society should continue, it is necessary that its constituent members should be replaced as they are eliminated. While society is a physical fact, it is nevertheless constituted of the interrelations of minds which are connected with physical bodies....Viewed biologically, the individual mind is a function of the body, in the sense that it is an instrument for the better adjustment of the organism to its more complex environment. Simple organisms have little need of mind because the environment is immediate and simple. But with growing complexity of surrounding conditions there is a concomitant demand for an agent that can sense things remote in time and space. While this is not the whole function of the mind, it is a very necessary duty....Second, the family touches national life on its physical side. For one thing, it serves as a means of holding people in permanent relations with the land. The settled character of life has developed with the increment and definition of family functions. The adoption of a permanent mode of shelter and defense has tended to bind populations to a locality.... Third, the family on its physical side has eugenic implications, because it is the medium of replacing decedent members of society, it bears the responsibility of affecting the inherent physical character of the stock. Persons who marry because of their selective power relative

to mates, determine whether the race shall become physically strong or weak. And since health and strength, that is, bodily validity, are the foundation of individual and social mind, of social energy, and of the general welfare, it is of paramount importance that this function be well exercised. Society's interest in the matter is so fundamental that it should not do less than adopt all effective means for securing sound parents and preventing perilous marriages. (6)

There are good reasons to believe that originally society was created by the family. Because the family was the first permanent social group and institution, and because of its reproductive functions, it not only preceded but produced other social institutions. At a later date, as in fact, in every age, the form and quality of the family is a product of general conditions, but this does not invalidate the previous statement. While society now creates the family, the latter was primarily the creator of society....In a real sense, the domestic institution is the archetype of society at large. As Leibnitz beheld the reflection of the universe in each of his monads, so likewise, the family group is the society microcosm. While it is true that the relations of members of this group to each other are peculiar to this group only, in that parenthood, childhood, fraternity, husband and wife bear their own

(6) Gillette, John M., "The Family and Society", pp. 2,3, 4,6,7.

special meanings, nevertheless, the rudiments of the structures and functions of society at large, are to be found in the family. It is not to be supposed that this is true just because the larger society expanded from the family, but rather because in the nature of things all social groups have to be founded on essentially the same principles. Second, family life epitomizes the great economic activities of society in that it involves production, distribution and production of wealth. That it consumes wealth in the articles and foods it uses is obvious. Its productive activity may consist of the produce raised on the farm, the foods and clothes worked up into consumptive form in the home itself, or be represented by the income gained from the occupations of members of the family. The income may be shared on a fair and open basis or very unequally, as in society generally. Unfair family distribution may be accepted passively or resented and so become a cause of family dismemberment. Fortunate are the children and wise the parents of the family in which justice and equity in sharing the income obtains. Third, the governmental institutions of society have their prototype in the family. The family has its head or executive in father or mother, its laws which are laid down by the parents in rules of action, its common law in the family customs and common consent, its court of justice as infractions of law and customs are judged, its penal reformatory phases in the treatment accorded offenders, its public

opinion, which affects its legislative, administrative, and judicial activities. Further, it may make budgets so as to keep within its income and have a sinking fund for emergencies. Thus the children in the home are made acquainted with the essentials of governmental functions and are able to appreciate the simpler aspects of the state when they meet it as citizens. One of the conspicuous truths arising from the study of criminals is that ruthless, loose and unfair family governments have far reaching effects toward making anti-social individuals. The converse is also true, namely, that a well governed and conducted family promotes the socialization of the offspring in a most effective manner. (7)

SOCIAL CONDUCT.

As a socializing agency the family influences its individual members to accept the social status quo which is established by either the parents, the immediate environment or both, therefore, the family may essentially be considered as a mode of conduct. It is not an establishment as is the house, but a group of activities that have a core of common significance. It is not just a people, but people who live together that makes a home. The study of the social problems of the family is the investigation of human behavior in the relationships characteristic of family grouping. Family

(7) Ibid. pp. 7-10.

life is one type of social conduct, and everything we know about the behavior of men, women and children in their other relationships help us to understand the problems of the family; every fact that we gather concerning family situations has a value in understanding human conduct in its wider aspect. The family is a social institution, but is such because it is an organization which provides a peculiar opportunity for the interaction of individual human beings. It is essentially not a thing but life -- life expressed at close quarters in ways characteristic of man. (8)

The family unit is to a certain extent a concentrated reflection of the larger social group of which it is a part. On the other hand, the family in turn becomes the seed bed from which grow and develop the ideas, ideals, attitudes and practices which take the ultimate form in the larger group and determine the tone and the trend of the social agencies and organizations and their resultant activities which make up the life of each succeeding generation. (9)

MORAL ASPECTS.

The family in its moral aspects has one end, the common good of all its members, but this has three

(8) Groves, Ernest R., "Social Problems of the Family", p. 11

(9) Elmer, Manuel Conrad, "Family Adjustment and Change", p. 20.

aspects:

(1) Marriage converts an attachment between man and woman, either of passion or of friendship, into a deliberate, intimate, permanent, responsible union for a common end of mutual good. It is this common end, a good of a higher, broader, fuller sort, than either could attain in isolation, which lifts passion from the impulsive or selfish to the moral plane, it is the peculiar intimacy and the peculiar demands for common sympathy and cooperation, which give it greater depth and reach than ordinary friendship.

(2) The family is the great social agency for the care and training of the race.

(3) This function reacts upon the character of the parents. Tenderness, sympathy, self-sacrifice, steadiness of purpose, responsibility and activity, are all demanded and usually evoked by the children.... (10).

THE SOCIAL FUNCTION.

The primary function of the family is continuing the life of the species; that is, the primary function of the family is reproduction in the sense of the birth and rearing of children. While other functions of the family have been delegated in a large measure to other social institutions, it is manifest that this function cannot be so delegated. We know of no human

(10) Dewey, John and James H. Tufts, "Biologic and Economic Aspects of the Modern Family", pp. 480-481.

society in which the birth and rearing of children has not been the essential function of the family. In present society, at least, the stream of life must flow through the family. The constitution of the family, therefore determines the heredity of the child as well as its care and upbringing. If the family performed no other function than this of producing the new individuals of society and furnishing them physical care and nurture until maturity is reached, it would still be the most important of all human institutions. From the sociological point of view, the childless family must be judged a failure.....

THE FUNCTION OF THE FAMILY IN CONSERVING
SOCIAL POSSESSIONS.

The family is still the chief institution in society for transmitting from one generation to another social possessions of all sorts, and therefore, of conserving the social order. Property in the form of land or houses or personal property, society permits the family to pass along from generation to generation. The family is the chief institutional vehicle of social tradition, because the child gets its language mainly in the family; and in social tradition is embodied all the beliefs, standards, and values of civilization regarding industry, government, law, religion, morality, the family and general social life.....

THE FUNCTION OF THE FAMILY IN SOCIAL PROGRESS.

While the conservative functions of the family in social life are very obvious, the part which it plays in social progress has often been overlooked and even denied. Now, social progress, we shall see later, depends mainly upon two things: the accumulation of knowledge and the accumulation of altruism - regard for others in society. It is, of course, through the latter that the family life plays a part in social progress. The family is the chief generator of altruism in society, and increasing altruism is necessary for the success of those more and more complex forms of cooperation which characterize higher civilization and upon which it depends. It is chiefly in the family that children learn to love, to be of service, to sacrifice for others, and to respect one another's rights. If the family fails to teach the spirit of service and self-sacrifice to its members, it is hardly probable that they will get much of that spirit from society at large. The amount of altruism in society, therefore, has a very close relation to the quality of the family life.

THE FORMS OF THE FAMILY.

Polygny*, or the union of one man with several

*The word "polygamy" is too broad in its meaning to use as a scientific term for this form of the family. "Polygamy" comes from two Greek words meaning "much married", hence it includes "polyandry" - many husbands and "polygyny" - many wives.

women, is a much more common form of marriage...

Some judgment of the social value of polygyny may not be out of place in connection with this subject. Admitting, as all students of social history must, that in certain times and places the polygynous form of family has been advantageous, has served the interests of social survival and even of civilization, yet viewed from the standpoint of present society, it seems that **our** judgment of polygyny must be wholly unfavorable. In the first place, as we have already seen, polygyny is essentially an institution of barbarism. It arose largely through the practice of wife capture and the keeping of female slaves. While often adjusted to the requirements of barbarous societies, it seems in no way adjusted to a high civilization. Polygyny, indeed, must necessarily rest upon the subjection and degradation of women. Necessarily, the practice of polygyny must disregard the feelings of women, for women are jealous creatures as well as men. No high regard for the feelings of women, therefore, would be consistent with the practice of polygyny. Finally, all the evidence that we have goes to show that under polygyny, children are neglected, and, at least, from the standpoint of a high civilization, inadequately socialized. This must necessarily be so, because in the polygynous family the care of the children rests almost entirely with the mother. While we have no statistics of infant mortality from polygynous countries, it seems probable that infant

mortality is high, and social workers in communities with polygynous families quite generally testify that delinquent children are especially found in such households. Fatherhood, in the full sense of the word, can hardly be said to exist under polygyny.....Those philosophers, like Schopenhauer, who advocate the legalizing of polygyny in civilized countries, are hardly worth replying to. It is safe to say that any widespread practice of polygyny in civilized countries would lead to a reversion to the moral standards of barbarism in many if not in all matters. That polygyny is still a burning question in the United States of the twentieth century is merely good evidence that we are not very far removed yet from barbarism.

MONOGAMY.

Monogamy, as we have already seen, has been the prevalent form of marriage in all ages and in all countries. Wherever other forms have existed monogamy has existed alongside of them as the dominant, even though perhaps not the socially honored form. All other forms of the family must be regarded as sporadic variations and on the whole unsuited to long survival, because essentially inconsistent with the nature of human society. In civilized Europe, monogamy has been the only form of the family sanctioned for ages by law, custom and religion. The leading peoples of the world, therefore, practice monogamy, and it is safe to say that the connection be-

tween monogamy and progressive forms of civilization is not an accident.....

The advantages of monogamy can be grouped under six heads.

(1) The number of the two sexes is everywhere approximately equal. This means that monogamy is in harmony with the biological conditions that exist in the human species. The equal number of the two sexes has probably been established through natural selection...

(2) Monogamy secures the superior care of children in at least two respects. First, it very greatly decreases mortality in children, because under monogamy both husband and wife unite in their care. Again, monogamy secures the superior upbringing, and therefore the superior socialization of the child.....

(3) The monogamic family alone produces affections and emotions of the higher type. It is only in the monogamic family that the highest type of altruistic affection can be cultivated. It is difficult to understand how anything like unselfish affection between husband and wife can exist under polygyny. Under monogamy, husband and wife are called upon to sacrifice selfish desires in the mutual care of their children....

(4) Under monogamy, all family relationships are more definite and strong, and thus family bonds, and ultimately social bonds, are stronger.

(5) Monogamy favors the development of high types of religion and morals, family affection being an

indispensable root of any high type of ethical religion.

(6) Monogamy not only favors the preservation of the lives of the children, but also favors the preservation of the lives of the parents, because it is only under monogamy that we find aged parents cared for by their children to any extent. (12)

SHORTCOMINGS OF THE MODERN FAMILY.

Disintegration of the home and a dire effect on family unity are caused by many external influences which may be alien to the intimate environment of family life. This thesis is defended by Edward T. Devine, who says that every personal weakness and folly, every adverse social condition against which those who strive for personal rehabilitation have to contend, stands also in the way of wholesome family life. Inefficiency and shiftlessness, a defective organization of industry, infectious disease, an obsolete system of courts and jails, and overwork of wage-earners, men, women and children, are all destructive of the family as of the individual. It is most often in the family, and in their bearing on the welfare of the family as a whole, that these and like problems are actually encountered. Divorce and family desertion, a lack of proper guardianship, making necessary the removal of children, bad housing conditions, congestion of population, and a low standard of living, are even more obviously family, as distinct from individual problems. (13)

(12) Elwood, Charles A., "Social Function of the Family" Monogamy and Polygamy, pp. 472-479

(13) Devine, Edward T., "The Family and Social Work". p. 101

INSTITUTIONAL MARRIAGE.

Many qualifications are required to insure a successful marriage. There are many causes for disruption due to a lack of preparation. Groves speaks optimistically when he says that in spite of the mistakes and failures of married people and the restlessness of the unhappily married, the institution of marriage will endure, because it is built, not on convenience or coercion, but on human craving; behind it are centuries of human experience that demonstrate that the home has come to meet the greatest human need, the desire for intimate response based on an affection that is trustworthy. (14)

However, Groves, qualifies his statement, by reminding us that preparation for marriage, now so desperately needed by young people as a consequence of the prevailing conditions of social life, should include among other things, instruction and if possible, experience in family expenditures. Love is too valuable a family wealth to be lost through inexperienced buying or self gratification or cravings for superficial comforts.

An elucidation of these concepts is given by Ludwig Lewisohn, in his "Love and Marriage", when he insists that this sort of social control is not his ideal. Love is like religion, a matter for the in-

(14) Groves, Ernest R., "Social Problems of the Family"
p. 65.

dividual soul. To change partners in love is very much like changing one's opinion on some deep and vital matter. The spirit must bear its own inherent witness. But I promised myself not to be Utopian. And may it not conceivably be brought home to a few people to begin with that, the men who laugh so spontaneously when the song-and-dance man sings, "My Wife's Gone to the Country, hurray, hurray!" are leading immoral lives and reducing their partners to the role of disagreeable prostitutes and unsatisfactory servants?

I am not prepared to stress this point. True marriage, the true and lovely union of a man and a woman, body and spirit, is rare. But today it is not even an ideal, not even something admired and striven for. Love in itself is rare, and married love is perhaps as rare as beauty or genius. Happiness, too, is rare, happiness in any relation. But even as a man or a woman has made an obvious and shattering mistake if his or her chosen work does not produce a reasonable minimum of lasting inner satisfaction, so may marriage also be tested by a reasonable minimum of lasting, let us say, preference and blessedness. To fall below that minimum, is to cheat both the present and posterity, to sacrifice honor to a fetish and vitality to decay. (16)

(16) Lewisoohn, Ludwig, "Love and Marriage", pp.202 - 203

WHAT IS MARRIAGE?

An eternal question. It is just as difficult to reach out for a correct definition of marriage as it is to procure a unanimity of opinion regarding a fixed definition of religion. The institution of marriage is relative because it depends solely upon the reaction of the individual to certain personal and environmental stimuli. Savage, in his "Man, Woman and Child", argues the question from a very practical angle. He speaks now of course, of the ideal. Marriage is the life-long union, the union of body, of heart, of mind, of soul, of labor, of cares, of hopes, of fears, of interests, of a man and a woman and the essence of it is just this complete union, which they and only they can effect. We need to go beneath the superficial considerations of what constitutes marriage, and see it in its essence. The common opinion seems to be that any two people who chose to come before a civil magistrate, a minister, and promise to love, honor and cherish each other, etc., and whom this magistrate pronounces husband and wife, are really married, and yet neither church nor state ever yet had the power to create a marriage concerning the real thing, the heart of it. They can bind the man and woman to-

(17) Savage, M.J., "Man, Woman and Child", pp. 60-61.

gether by legal bonds, but this is not marriage. Men and women can be one in heart and life without any help from either church or state, and though church or state do their utmost and bind them together by legal ties, yet, in heart and love and life, they may be a whole universe apart. (17)

MOST CRITICAL PERIOD OF MARRIAGE.

The most critical period of marriage, as a rule, is its beginning. No undertaking in life is so influenced in its later course by the conditions of its start, as is marriage. There are various reasons for this. The happenings at the commencement of married life are embedded in the emotions in a way that magnify their importance out of all proportion to the meaning they would have under ordinary circumstances; subsequent events also are apt to take on a coloring due to the memories of the first days of matrimony. The more fatigued, worried or self-conscious either husband or wife is, when passing into marriage through the gateway of the wedding, the greater is the risk of emotional stress with its rapid fluctuations and inconsistencies. Even when no strong emotional undercurrent exists, the early days of married life are particularly significant, for immediately there commences an attempt to reorganize the lives of the two persons who were previously adjusted to dif-

(17) Savage, M.J., "Man, Woman and Child", pp. 60-61

ferent circumstances and other individuals. Even if the courtship has been unusually long and frank, the new relationship completely changes the interaction of the two personalities and forces a different state of intimacy. (18)

The marriage relation is often entered into hastily and without due deliberation even on part of adults. There are love-at-first-sight marriages, wager marriages, marriages hastily entered into with unsuspecting parties for the purpose of gaining possession of money, valuables, or other advantages, and the like. Hasty marriages are facilitated by the careless way in which licenses to marry are frequently issued and the existence of marriage market towns with their marrying parsons and magistrates. Hasty marriages are seldom happy and permanent, and must therefore be numbered among the actual causes that help swell our divorce rate. "It is true that engagements can be too long; they can also be too short. A dispassionate examination into what is actually happening reveals that grave misrepresentations, that concealments bordering upon crimes are not uncommon. These are made more possible by haste. Drinking and carousing frequently precede hasty marriages; social lapses, not criminal, but serious, are per-

(18) Groves, Ernest R., "Social Problems of the Family"
p. 120

petuated by it; a considerable number of annulments and divorces are traceable to it." (19)

Horace J. Bridges, in his definition of marriage offers an exposition of his conception of the ideal marriage, by stating that it is the union of man and woman wherein both find the supply of their own deficiencies, the satisfaction of their needs, the force to strengthen the sides of their natures that are too weak, and the power to tame and restrain those impulses that are too strong. It is a union wherein the personalities are merged but not submerged, the individualities fused but not confused; since, by one of these paradoxes with which life constantly defies logic, the distinctness of each is sharpened and intensified by the blending. It is the source of ever-growing and ever-deepening fulfillment and satisfaction that the very thought of its interruption or cessation is unbearable. When the partners are happy, their shared happiness is richer and deeper than any unshared felicity could be. When sorrow or tragedy shadows their lives, their union is a consolation and a source of strength more precious than any happiness for which it could be exchanged. Such a marriage is the bondage that is perfect freedom, the escape from futility and emptiness of life, the harmony and self-fulfillment. It is the greatest blessing that

(19) Bruce, Gustave Marius, "Marriage and Divorce", pp. 150-151

(19a) Hall & Richmond, "Marriage and the State", p. 148.

that can be wished or imagined. In monogamy at its possible best - and in monogamy alone - is to be found what everybody naturally must, and actually does desire, and what is blindly and futilely sought by all who advocate or practice other modes of sex union.

This ideal we must keep before our minds as a standard of reference, by which to judge of our own progress - or lack of progress - in the fine art of marriage; exactly as painters and sculptors refer to acknowledged masterpieces in their arts, to gauge the growth of their own skill. (20)

Dr. Stekel takes a rational and well-balanced viewpoint of modern marriage, when he discusses "Marriage at the Crossroads" in which he says that superficial observers might question our right to speak of a "modern" marriage - as if marriages were something different at different periods of time. One often hears the remark, "humanity doesn't change, and modern marriage is not a bit different from that of our ancestors. There have always been happy and unhappy marriages, faithful husbands and faithless wives, faithless husbands and faithful wives. The conflicts are eternally the same."

A glance at the history of marriage shows the weakness of this objection. It shows that marriage, like all social contrivances, is swept along by the spirit

(20) Bridges, Horace, J., "The Fine Art of Marriage", pp. 72-73

of the age and is subject to continual changes. And in view of this fact, can it be denied that we are now passing through a remolding of our sexual life; a remolding, perhaps, which is already not so much in the nature of a continuous slow development (evolution) as that of a violent transformation (revolution)? The sexual instinct which for so long a time was concealed and looked down upon has again been recognized as honorable and human. One is no longer ashamed to confess that one is a sexual being; one now has the courage to acknowledge one's sexuality. (21)

DETERMINANTS FOR HAPPY MARRIAGES.

Dr. Stekel continues by enumerating the principles, the determinants which he considers to make for happy marriage.

If a marriage is to be happy, the following determinants must be considered:

- (1) Correspondence of the individual love conditions in relation to sexuality.
- (2) The equal or similar strength of the sexual instinct without parapatnic restraints.
- (3) Harmony of temperaments.
- (4) A suitable mixture of masculine and feminine elements in each of the partners, who thus supplement each other. (Weininger's law).

(21) Stekel, Dr. Wilhelm, "Marriage at the Crossroads", p.1.

- (5) Equal life rhythm.
- (6) Erotic love as the consequence of a correspondence of erotic requirements.
- (7) The economic conditions of marriage.
- (8) The eugenic factors (health, question of sound progeny, individual attitude in relation to hygienic question, etc.)
- (9) Progeny (question of having children, problems of rearing, preventive measures, etc.)
- (10) The **problem** of dominance (war of the sexes)
- (22)

Harnly offers an addendum to Stekel's ten determinants when he says that:

- (a) Marriage is a divinely ordained institution. It is not merely an arrangement entered into as a matter of convenience, or to meet certain emergencies.
- (b) Monogamy is the normal and the divinely appointed form of marriage, one man set apart for one woman, and one woman for one man. If in the judgment of God it would have been better for man to have a plurality of helpmeets, it may be taken for granted that more than one would have been provided for him. It would have been as easy to make a dozen helpmeets out of that rib as it was to make one.
- (c) Marriage is a permanent state, it is a union

that is intended to endure as long as life shall endure. It is a contract that may be dissolved only by death. (23)

There is a tendency to mechanize the institution of marriage by an over-abundance of, and artificially created principles which in their structure are to steadfastly hold together the bonds of matrimony. In its place, Felix Adler argues that marriage seems to him to be the epitome of all finer relations. There is a certain element of brotherliness in it as between the married pair; there is a certain fatherly attitude; there is a certain motherly brooding on the part of the wife over the husband; there is friendship, an element of comradeship; and there is always something infinitely more. What is that something infinitely more? It is something present in no other human relation. It is just the feeling that as between husband and wife, there shall be a total blending of mind with mind and heart with heart; that they shall not touch merely at one point, as friends or companions do, but they shall touch at all points; that they cannot endure separation. Emerson said he could well afford to have his friend, Carlyle, live on the other side of the water - he ~~did~~ not need his presence; but true husband and wife cannot live one on this side of the water and the other on the other side. They are moved to have all things in common, to live

(23) Barnly, Andrew H., "The Problem of the Home", p. 21.

under the same roof, to break bread together day by day, to pass through the vicissitudes of life together, to suffer with each other, to rejoice together, to wish to confer perpetual benefit each on the other. They are not romantic enthusiasts, neither are they without the poetic rapture in each other's relation. The true love of marriage differs from romantic love in this, - that the romantic lover sees perfection contrary to the facts, and attributes a present perfection to the other; the real lover is he who sees a certain excellence, a certain charm - without the attraction of that there would be no approach - but beyond that, sees the possibility of greater excellence and perfection which is not yet, but which shall be developed through mutual help. (24)

PITFALLS OF MARRIAGE.

There are two menacing pitfalls in modern marriage; the tendency to over-sensualize the relationship and the tendency to over-spiritualize it. Love, in its most exalted, emotional, altruistic form, has grown from the universal and physical attraction of the sexes. It is from the sex-impulse that all the finest manifestations of the "spiritual" in mankind have been slowly evolved, and are still developing. Plato traced this connection

Adler, Felix, "Marriage and Divorce", pp. 22, 23, 24.

when he described thought as a sublimation of erotic desire. The diversion of this urge, or "libido", into spheres of noble activity, apparently unassociated with sex-love, is the source of creative art and of most in life that we value very profoundly.

Over-evaluation of the purely primitive expression of the sex instinct, as instanced in marriage without spiritual comradeship, generally brings disappointment and satiety, and is only to be described as a crude form of pseudo-conjugality. The same definition must be given to the relationship in which the sensuous imperative desire is feared or underestimated. Asceticism is an attempt to deny sexuality. Weininger asserted that "reproduction and fertility are nauseating." This may seem an extreme and infrequent mental attitude. There are, however, a very large number of men, and larger proportion of women, who are incapable of understanding the saying of George Sand, that in a complete love union, the soul has not betrayed the senses nor have the senses betrayed the soul. Marital love is often murdered, before it is rightly consummated, by primitive lust or by prudish recoils. The inter-activity of spirit and body is inseparable in the love of the sexes. "Spirit and body, twins, and not as some would have us believe antagonists, clamour for sustenance so that through individual and united fulfillment they may bring peace and joy to the whole nature of a man and woman. (Mrs.

Havelock Ellis, "The New Horizon in Love and Life").

In striving to attain the finer spiritualized ideals of wedded love and to dissociate "the lower nature" from the "higher", we incur the risk of oversublimating passion to such transparency as may lead to the total disappearance of love.

Leo G. Sera has said, that to diminish "amorous warmth and vigorous vitality" is to threaten both love and the strength of the race. "It is to the interest of the race to be propagated by means of the most active and healthy individuals." And he adds, "sentimentalism is the amorous effervescence of cold people."

Sentiment, must, however, be regarded as the curb upon instinctual impulses that menace social well-being. Sera seems to fall into the error of affirming that erotic interest and vigor are likely to decline with the development of "poetic love, platonic love, sentimental love". I cannot find any proof in the writings of cultured women - advocates of the "greater love" of the future, of an effort to divorce the bodily from the spiritual in love. Olive Schreiner, Ellen Key, Mrs. Havelock Ellis, Helen Stocker and Sophie Kowalewski are keenly alive to the danger of undervaluing the physiological basis of the love of the sexes. (25)

(25) Gallichan, Walter M., "Pitfalls of Marriage", pp. 15, 16, 17.

INSTABILITY.

Perhaps the characteristic of the twentieth century family that most sharply challenges the attention of the student of family history is its instability. It is a far cry from the closely knit, highly unified, family organizations of the ancient Roman or the Middle Age Teutons to the more loosely organized household of modern times wherein each member tends to claim independence as an individual with a personality to be developed and respected. Nowadays, at least in England and America, no family head holds all the property, real and personal, of its members in his own control; nor does he represent his wife and children before the law, paying their fines for civil offenses. The father is no longer the religious head of his family, offering prayers and sacrifices to household gods whose supreme function it is to maintain the unity of the family and its estates.

At present, it is rather rare for a single will to impose itself upon every member of the family and secure unquestioning obedience to its dictates by the exercise of physical force backed by the authority of the State. Instead, the modern household not infrequently presents the phenomenon of a group of clashing wills, an association of highly individualized persons, each asserting his rights and maintaining his privileges with greater or less success. The family unity of modern times - and many homes today exemplify this unity in strength and beauty - is more a spiritual oneness of

mutual love and consideration, of common interests and goals than a unity secured by centering all authority in one head. Obviously the individualistic spirit has undermined and in part superseded the autocratic; and although the gain to humanity has been great indeed, the advance has not been made without some loss. The family of the twentieth century is markedly unstable; it would seem that in some instances it has paid for the independence of its members, the costly price of its very existence in a changed and incomplete form.

The social literature of the age abounds in references to this instability of the modern family organization and foretells its extinction, at least in its present form. We are told that monogamic marriage is doomed; and that it was based wholly upon economic foundations, e. e., upon the desire of man to transmit property intact through legitimate issue, thus securing the perpetuation of the family name and lands. With the breakup of the economic, religious and legal bonds that once made of the monogamic family a strong unit, we are assured that looser and less permanent forms of association will in all probability take its place. Writers in this strain, point to certain conditions in modern family life as evidence of the truth of this contention. They call attention to the wide prevalence of divorce, the increase of family desertion and the effect of modern industry in disintegrating the family. (26)

(26) Goodsell, "A History of the Family as a Social and Educational Institution", pp. 456-457.

ILLUSIONS.

A radical illusion that often leads to shipwreck is the assumption that marriage is a state of which mutual happiness, instead of mutual training is the object; training indeed, under the most felicitous conditions, where the choice has been fortunate, but training in any case. The illusion consists in supposing that we are to enjoy each other's perfections in a state of delight, keen and rapturous at first, milder but still marked later on, instead of our regarding marriage as a state in which, through the influence of ~~sex~~ nature in the nobler view of it, on either side, we are to win from one another, such adumbration of perfection as finite humanity is capable of. (27)

Adler comes to the defense of the marriage institution which is at times popularly acclaimed a failure. He argues that even though a sweeping assertion is sometimes made that modern marriage is a failure, this is a grotesque exaggeration. Pathological phenomena which give color to this view, proclaim themselves from the house-tops, and sariel in public print. On the other hand, the normal, happy marriages do not proclaim themselves, but rather shun publicity, and bring their homage to the ~~ferates~~ ~~ferates~~ in the guarded precincts of sacred privacy. Fortunately, the great majority of

(27) Adler, Felix, "Marriage and Divorce", p. 75

marriages, though they be not perfect, as nothing human is perfect, are doubtless, on the whole, the brightest aspect of the life of the human race. (28)

Popenoe, prescribes three reasons for the disappointing results of marriage by contending that the trouble with marriage today is not, as some have supposed, that the fundamental principle of monogamy no longer accords with human nature. My thesis is that this principle is at the present time scientifically unassailable. The real trouble is highly complex, but the following aspects of it particularly require consideration.

1. Young people are not properly educated for marriage. Many of them scarcely know what marriage means.

2. They do not always have the guidance to choose mates wisely.

3. They do not understand how to conserve and foster that mutual love which is universally admitted to be the essential element of a happy marriage. (29)

However, in "The Bankruptcy of Marriage", we find an analysis for the decay of modern marriage when Calverton says that when we speak of marriage today and the marital institution, it must not be thought that we are speaking of marriage in terms of historical evolution. If we say that marriage has decayed, we do not mean that people do not still marry, or that they will not marry in the future. On speaking of the bank-

(28) Adler, Felix, "Marriage and Divorce", p. 4

(29) Popenoe, Paul, "Modern Marriage," preface VII - VIII.

ruptcy of marriage we mean the bankruptcy of modern marriage and the moral foundation upon which it has been constructed. Even under a state of free love, people may marry, but their marriages may signify nothing more binding than ephemeral affections and alliances for a fortnight. Primitive marriage was marriage also, but with divorce as simple as marriage, it was based upon nothing other than the theory of free contract. This theory of free contract is all that the modern revolutionist or free-lover desires. But this attitude is a violation, in fact the very antithesis, of the binding contract upon which modern marriage has been founded. It is marriage as we know it, therefore, the marriage of modern monogamy, of the binding contract variety, or system of marriage, in other words, that has broken down, and today is bankrupt. (30)

BROKEN HOMES.

The weakening of family bonds and the growth of tensions within the home suggest an increase in domestic disintegration in recent years. Current opinion and statistical studies also bear this out. Divorce, for instance, has grown not only in this country, but also in other parts of the world. In fact, its increase may be said to be worldwide. Naturally, this decay

(30) Calverton, V. F., "The Bankruptcy of Marriage", pp. 61-62

has involved a crippling of family functions and a hampering of its purposes in multiple ways. Both the individual parties to the marriage contract, and the children born of the union, have suffered greatly in many instances. Some have been injured for life. Of the various kinds of total family disorganization, divorces hold the center of public interest. Statistical studies have been largely limited to this field, far less attention being given to such forms of the disrupted family as desertion, separation.....(31).

The consequences of broken homes are manifold and seriously harmful. Very commonly, the main purposes of the family institution are frustrated in whole or in part. Particularly are innocent children made to suffer, frequently for life. But even when there are no children, the severing of the marital tie is of great social significance. The parties to the broken contract suffer, and the broken home is hurtful to society as a whole. Perhaps the consequences in the case of divorce are the worst. At any rate, this is by far the greater part of the present problem of broken homes. (32)

TENSIONS.

A more recent classification includes thirteen types of tensions. The divisions are:

1. Economic.
2. Occupation.
3. Response (Sex).

(31) Schmeidler, Edgar, "An Introductory Study of the Family, p. 202.

(32) Ibid. pp. 214-215.

4. Control (Positional relationship of members to each other)
5. Status (Positional relationship of family in social participation)
6. Culture
7. Philosophy of life
8. Temperament
9. Health
10. Individual capacities and abilities
11. Appetites and habits
12. Personal behavior pattern.
13. Age.

(33).

A more recent classification of various kinds of tensions can be distinguished. Several attempts have been made to group all of them together as type situations in order to prove as guides in the analysis and diagnosis of cases of domestic discord and in the reconstruction of disorganized families. Since the matter of classification is in greater part arbitrary, the situations included in the different classifications naturally differ.

Perhaps the most elaborate classification has been worked out by Merony in a thesis at the University of Chicago as follows:

I. Economic Factors

- (a) Poverty
- (b) Financial reverse
- (c) Economic independence of wife
- (d) Occupational condition

1. Employment of both husband and wife
2. Mobility of occupation
3. Stability of occupation
4. Occupational standards
5. Sex contacts required by occupation.

(33) Krueger, E. J., "A Study of Marriage Incompatibility" p. 53.

- II. Health Factors.
 - (a) Sickness and Disease
 - (b) Physical deformity
 - (c) Physiological change due to age
 - (d) Psychopathic conditions
 - III. Personal Factors.
 - (a) Temperament
 - (b) Appetites and habits
 - (c) Sex attitudes
 - (d) Age variance
 - (e) Philosophy of life
 - (f) Personal behavior patterns
 - IV. Social Factors.
 - (a) Race
 - (b) Social class
 - (c) Religion
 - (d) Status
 - (e) Child complexes
 - (f) Social control of the family group
 - (g) Relatives
- (34)

Schmiedler, offers another version of family tensions when he holds that typical sources of domestic discord - conflict situations that naturally tend to disturb the family pattern and break down the family complex. Tensions are usually found in differences of attitude between individuals in a group. The attitudes of an individual greatly affect his conduct. Just as an identification or similarity of attitudes naturally serves to unite and integrate the members of groups, so a differentiation or dissimilarity of attitudes readily tends toward disunion and group disintegration. When, therefore, the attitudes of the husband and wife come to differ fundamentally, one may normally expect some

(34) Schmiedler, Edgar, "An Introductory Study of the Family", p. 184

lack of agreement also in their behavior. The fact is that such differences of attitudes often lead to open disagreement and outright conflict between the pair.

To some extent such conflict situations were found in the homes of the past, and at the present time no family can expect to escape their influence entirely. In fact, today, family tensions have grown in number and intensity, and are also working greater havoc in family life than was the case even in the fairly recent past. In some homes, it is true, they are quite rare. In others, they may occur with considerable intensity but speedily pass into oblivion again.

It is in the homes in which they become chronic that family tensions do most damage. If a family is already weak because of a weakening of its various bonds, the tension situation will likely hasten its dissolution. But, if otherwise strong and vital, the tension will likely be nipped in the bud and leave little or no harmful effect on the domestic group. (35)

CONJUGAL FREEDOM.

The marriage system of the future, as it moves along its present course, will resemble the old

(35) Schmiedler, Edgar, "An Introductory Study of the Family", p. 183

system in that it will recognize the sacred and sacramental character of the sexual relationship, and it will resemble the civil conception in that it will insist that marriage, so far as it involves procreation, shall be publicly registered by the state. But in opposition to the church, it will recognize that marriage, insofar as it is purely a sexual relationship; is a private matter, the conditions of which must be left to the persons who alone are concerned in it; and in opposition to the civil theory it will recognize that marriage is in its essence a fact and not a contract, though it may give rise to contracts, so long as such contracts do not touch that essential fact. And in one respect it will go beyond either the ecclesiastical conception, or the civil conception. Man has in recent times gained control of his own procreative powers, and that control involves a shifting of the center of gravity of marriage, insofar as marriage is an affair of the state, from the vagina to the child which is the fruit of the womb. Marriage as a state institution will center, not around the sexual relationship, but around the child which is the outcome of that relationship. Insofar as marriage is an inviolable public contract it will be of such a nature that it will be capable of automatically covering with its protection every child that is born into the world, so that every child may possess a legal mother and a legal father. On the one side, therefore, marriage is tending to become less stringent; on the personal side it is a

sacred and intimate relationship with which the State has no concern; on the social side it is the assumption of the responsible public sponsorship of a new member of the State. So among us some are working to further one of these aspects of marriage, some to further the other aspect. Both are indispensable to establish a perfect harmony. It is necessary to hold the two aspects of marriage apart, in order to do equal justice to the individual and to society, but insofar as marriage approaches its ideal state those two aspects become one.

(36)

LOVE ANALYZED.

Regardless whether we accept the behavioristic concept or on the other hand if we were to uphold the idealistic concept we should unquestionably recognize the place of love and affection in the family life. Dewey and Tufts choose to clarify love, as a complex sentiment which is found in the most perfect family life. They aver that on the one hand (1) a feeling or emotion; on the other (2) a purpose, a will. Both these are modified and strengthened by (3) parenthood and (4) social and religious influences.

The psychology of family life may be con-

(36) Ellis, Henry Havelock, "Theory of Marriage Freedom and Parental Obligation", pp 501-502

veniently considered under two heads: That of the husband and wife, and that of parents and children, brothers and sisters. (11)

SEXUAL LOVE.

There is a widespread belief that the emotions which civilized man groups together under the term "sexual love" have been and are an immutable aspect of the human psyche. Nothing can be more erroneous than such an idea. The emotions accompanying the mutual attraction between man and woman, like everything else in the world, have their history. The evolutionary steps in this particular realm are so varied that the civilized man who would understand the love of the savage must completely set aside the ideas taught by his own time;.....The whole development of love can be divided into three great periods, all fundamentally different. These are:

1. A period of primitive love, in which the simple animal characteristics of the emotion are blatantly present.

2. A period of family love, in which the secondary (spiritual) side becomes important, and wherein man is the master and moulds woman to his will.

3. A period of personal love, in which woman

(11) Ibid, p. 481.

awakens slowly to independence, becomes a personality and gives to love a new character. (37)

Here now in the fact of sex as spiritualized into love, is the basis of all marriage, which means that marriage, in the last analysis, must be regarded as individualistic. But this is only half of the story. For no sooner are a man and woman united in the bonds of love, **then** a social fact has been consummated and a social institution has been established. These two individuals, who are now married are no longer individuals, in the technical sense of the word. Each has merged his life with someone else, and, in so doing, has created the conditions of society which are none other than conditions of association and cooperation. The very moment the man links his life with that of a woman, or a woman links her life with that of a man, that moment society has a most vital kind of interest at stake, and has a right therefore, to insist upon being made a party to the contract. The idea, as Bernard Shaw has said, that "marriage is a private concern between two parties with which society has nothing to do", is ridiculous, for however true it may be that the origin of marriage is to be found in the heart of the individual, it is equally true that the results of marriage are to be found in the fabric of the social whole. The blessings of this marriage will be social blessings, the ills of this

(37) Mueller, Franz, Carl, "The Evolution of Modern Marriage" p. 25.

marriage will be social ills. Therefore, has society never consented to leave the union of the sexes to the personal desires and whims of the individuals concerned. Always has it insisted upon stepping in and determining for itself how this union shall be joined, how it shall be maintained, and how it shall be utilized for the higher interests of the social whole. Experience has taught us apparently for all time - for I can imagine no conditions in the future, which will alter this fact - that the "social control of the individualistic marriage is necessary for social welfare" and this means today three things.

It means, in the first place, that society shall hold and exercise the right to forbid the marriage of the unfit. Nothing is more important in our modern treatment of the question of marriage and divorce, than to use our powers of social control to prevent many people from marrying at all, those namely, whose marriage for one reason or another, can be "nothing but a tragedy and whose parenthood is a social danger and disgrace".

The feeble-minded and the epileptic, the insane and the criminal, those afflicted with the loathsome diseases of vicious living, the degenerates and the abnormal of every kind should be absolutely forbidden the privilege of sex relation, that they may be permanently removed "from the currents of family descent"; as one authority has put it "the poisonous elements of physical and psychological decay". The police power of the state is ample here; for it is just as necessary - or some day we shall see

that it is just as necessary - to prevent these individuals from "bringing forth seed after their own kind", as it is necessary to isolate the victim of smallpox or yellow fever, or to forbid the marriage of near relatives.

In the second place, the social control of the individualistic marriage means not only the forbidding of the marriage of the unfit, but also the regulation of the conditions of marriage for the fit. Such rigid restrictions should be thrown about the union of every man and every woman, that all hasty, ill considered, fanciful and ignorant marriages would be rendered improbable, if not impossible. It should be made necessary for such a period of time to elapse between the betrothal and the wedding that there will be some assurance at least, that some degree of lasting affection between the two persons is present. It should be required that both parties be given adequate instructions upon sex problems, that they may know something of the realities of the state unto which they are about to enter, and it should be required also that they receive some adequate training for the meeting of the responsibilities of this state, which is more momentous for the interests of the individuals concerned, to say nothing of society at large, than any trade or profession, for which a training of years is thought obligatory. In other words, society should take upon itself to provide that preparation for marriage be as definite a part of an education, as

preparation for any other of the infinitely less important walks of life, and then see that nobody is allowed to enter the marriage state who has neglected this education. I hope that some day the time will come when a marriage license will give the same guarantee as to the fitness of the recipients to exercise its privileges as the licenses which are now given for the practice of medicine and law. The stability of the family depends not half so much upon keeping people together who have once **married**, as upon preventing the marriage of these people until they have given some reasonable assurance of their knowledge of conditions, their seriousness of purpose and their sincerity of affection.

And lastly, the social control of the individualistic marriage means, "the return to the New England Protestant requirement for a civil marriage as the true and only legalization" of the union. This is the epoch-making recommendation of Mrs. Anna Garlin Spencer, in her recent book on "Woman's Share in Social Culture". "This civil service", says Mrs. Spencer, should be limited in form to such words as persons of all religious faiths could conscientiously use. It should be performed in such places as would safeguard privacy and protect from all trivial and coarse associations, and it should be performed only by special magistrates set apart for this important function and capable of properly representing the dignity and power of the state." Mrs. Spencer recommends that "the beautiful halls of

Marriage of some of the European build buildings might be produced in the United States", and she urges that the justices, who were no longer equal physically to the hardest work of the courts, but who had proved themselves of honorable character and distinction in public service, be set aside for this task as a crowning honor and public duty." Of course, such a civil service as this would not eliminate any such additional religious service as one might desire for the satisfaction of spiritual sentiment; but it would be recognized as the necessary preliminary of such religious service, and thus bear certain testimony to the everlasting supremacy of society over the relation of the sexes.

Here, then, is the true doctrine of marriage - a relation of one man with one woman, and of one woman with one man, determined and maintained by the sentiment of love, and recognized and regulated, for the sake of the general welfare, by social control. (38)

DOUBLE STANDARD OF MORALITY.

From the dawn of history, there has prevailed in society a double moral standard for men and women. Adultery on the part of the husband or illicit sexual connections on the part of the unmarried man have not been considered as serious as infidelity on the part of the wife or promiscuity on the part of the unmarried

(38) Holmes, John Haynes, "Marriage and Divorce", pp. 49-56

woman. The property right which a husband regarded himself as having in his wife, whom he has purchased, stolen or otherwise procured, and the legal transmission of property to descendants have been largely responsible for this position in both law and ethics. The man was lord of creation and as such was made less subject to restrictions of all kinds and could make woman in her dependence upon him subject to whatever restrictions he might choose to impose. Dr. Westermarck, in his large work on the "Origin and Development of Moral Ideas" makes mention of the attitude with respect to the double standard taken by various peoples and tribes, civilized as well as uncivilized, saying of the Aryans, Teutons, Romans and Greeks, representing the highest standards of civilization;-"the Aryan nations in early times generally saw nothing objectionable in the unfaithfulness of a married man, whereas an adulterous wife was subject to the severest penalties. Until some time after the introduction of Christianity among the Teutons their lawbooks made no mention of the infidelity of husbands, because it was permitted by custom. The Romans defined adultery as sexual intercourse with another man's wife; on the other hand, the intercourse of a married man with an unmarried woman was not regarded as adultery. The ordinary Greek feeling on the subject is expressed in the oration against Neaera, ascribed to Demosthenes, where the license accorded to husbands is spoken of as a matter of course: -'We keep mistresses for our pleasure, concubines for constant attendance,

and wives to bear us legitimate children and not to be our faithful housekeepers.'

That we have not passed very far beyond this conception even today with all our boasted civilization is all too clearly evidenced by the innumerable instances of outraged womanhood, wrecked homes, alarming prevalence of venereal diseases, blighted childhood, and the fact that commercialized vice numbers at its best and most numerous patronage married men from the various social strata, from the lowest to the highest. What would shock the "moral sensibilities" of the husband if indulged in by his wife, he feels himself free to indulge in at his pleasure, and expects her whom he has selected to "bear him legitimate children" and to be his "housekeeper", even if she knows of his infidelity, to remain true and faithful to him for the sake of the children and the home and his social standing. When woman was economically dependent upon her husband she was forced to submit to this condition of affairs, but since the day of economic freedom and independence for woman has dawned, she feels more free to separate herself from this male-vamp which she has called her husband and which her children have known as their father. Says the Wisconsin Vice Committee:

"Under the double standard the natural protection of the home and of women and children becomes their most dangerous assailant. Under the double standard the finer relationships of monogamous family life are entirely impossible. Under the double standard there can be no degree of

security from disease, there can be no confidence between husband and wife, and there can be no fine example presented by the father to children who look to the father as the embodiment of the best ideals." The Chicago Vice Commission in closing the introduction and summary to its report on the "Social Evil in Chicago" has a special word to men, saying among other things, "There is only one moral law - it is alike for men and women. Again, there is a contract called matrimony which is a solemn contract between those who love. It carries with it the elements of vested rights - even a solemn promise before God. A signature represents honor - it is there - likewise a promise - it is there. Has this contract been kept inviolate? If not, why not? To one who hears the ghastly story of fallen women, it is ever the same - the story of treachery, seduction, and downfall - the flagrant act of man - the ruin of a soul by man." There can be no doubt that the recognition by men that they have privileges and licenses simply because they are men which the women do not have simply because they are women, and the more or less general countenancing by custom and public opinion of two standards of morality, one that applies to men and one that applies to women, constitute a very important cause for many unhappy marriages, blasted homes, and ultimately divorce. (39)

(39) Bruce, Gustave Marius, "Marriage and Divorce", pp. 136, 137, 138, 139.

Social morality requires the promotion of such lines of conduct as are beneficial to the maintenance and improvement of society. It will demand of both man and woman the full development of personal health and vigor, careful selection of the best mate by both, with recognition on her side of special responsibility as the natural arbiter. It will encourage such sex relations as are proved advantageous both to individual happiness and to the race. We are as yet so controlled by a domestic morality, with its arbitrary restrictions, and by the threats and punishments of law and religion, that we shrink from the broader biological judgment as if it involved blame, punishment, compulsory reform. Not at all, men and women are no more to blame for being oversexed than a prize hog from being overfat. The portly pig is not sick or wicked, he is merely overdeveloped in adipose tissue. Our condition does not call for condemnation, nor can we expect any sudden and violent change in our behavior resting on foolish ideas of celibacy, of self-denial, or of "sublimated sex". It will take several generations of progressive selection, with widely different cultural influences, to reestablish a normal sex development in genus homo, with its consequences in happier marriage, better children, and wide improvement in public health.

It is to this end, with all its widening

range of racial progress, that social morality tends. (40)

MORAL SEPARATION BETWEEN PARENTS.

Separation within the family caused by differences of moral standards becomes a serious obstacle to the wholesome development of children; a moral discord creates a deep cleavage. The parent that resents the vicious conduct and bad reputation of the other parent, who has brought disgrace to the home, is constantly trying to protect the child from following in the evil footsteps. The attempt to save the child from the influence of the bad parent is almost certain to be overdone and by its very excess to attract the attention and perhaps the interest of the young child. (41)

FAMILY DISCORD.

It is not always possible to determine the amount of family discord by outward indications or even by the public or private accusations or complaints of the members of the family. The reaction will be largely a matter of temperament and cultural background. Everyone has had

(40) Gilman, Charlotte Perkins, "Toward Monogamy", pp. 64, 65, 66.

(41) Groves, Ernest R., "Social Problems of the Family", pp. 169-170

contact with families which were in a continual uproar of disputation and wrangling, yet where there is the most intimate and tender concern for each other. On the other hand, family discord may never take the form of verbal discussion, in fact, the surface waters may appear peaceful and serene, but beneath is an undercurrent which makes the functioning of the family an impossibility. (42)

A very large part, indeed much the larger part, of juvenile delinquency is to be laid to some imperfection or disorder in the home, or to the non-functioning of the home. On the one hand, are to be set down lack of good home, poor home environment, unfavorable home conditions, unhappy home life, parental neglect, etc. On the other hand, is to be placed the breaking up of the home through the absence therefrom of one or both parents, brought about by death, or by separation, divorce or desertion of parents. (43)

FAMILY DISORGANIZATION.

When one hears such statements as the "disorganization of the modern family" or the disintegration of the family", or "the passing of the family", the

(42) Elmer, Manuel Conrad, "Family Adjustment and Social Change", p. 170.

(43) Best, H., "Crime and Criminal Law", p. 241.

statements tend to carry a connotation which does not rest upon the facts. It implies that the family as an organization of mutually cooperative living is no longer feasible. Instead, however, the family of the present time is coming to be established on a sounder basis than ever before. Because society recognized the harmful results of a broken family relationship, rather rigid and inflexible rules were established. Since the factors causing friction were not eliminated, while at the same time there was developing a changing sense of individual rights, situations arose in the family life which could no longer be controlled by the older forms of suppression. The stream of divorces began to increase. However, with the development of our knowledge concerning human relationship, we have learned that there are factors present in the lives of individuals which, if allowed to continue, lead to friction and result in family disorganization. (44).

The normal family provides nurture and protection for the child, influences his personality and character and is the main source of the continuity of social tradition and consequent social control. The loss of a parent removes from the child the gauge which has been standardized with wider social contacts and by which he may test the

(44) Elmer, Manuel Conrad, "Family Adjustment and Change", p. 198.

meandering of his attitudes toward life. With one of these controls gone, it is more difficult for the child to develop in conformity with established social usage. He consequently develops habit patterns and reacts to social situations in ways which bring him into conflict with society and the extreme social restraints - in the courts, remedial and penal institutions are used in the attempt to adjust the difficulty. (45)

The disorganization of the family is a process which destroys its unity. It takes the form of a conflict in attitudes, constituting a condition of tension and strain in the relationship between the members and more especially between the husband and wife. The effect is partial or complete. If complete, the family disintegrates. Family disorganization as a process involves at one or more points, the following aspects:

(1). The common objective disappears and individual aims are substituted, by choice or necessity.

(2). Cooperation ceases.

(3). Mutual services tend to be withheld.

(4). The roles of the members are no longer coordinated and defined.

(5). The status of the family in its social world undergoes a change.

(45) Elmer, Manuel, Conrad, "Family Adjustment and Social Change", p. 169.

(6) . Emotional attitudes become antagonistic or are replaced by attitudes of indifference. (45a).

INDIVIDUALISM CHALLENGED.

The family unity of modern times, and many homes today exemplify this unity in strength and beauty - is more a spiritual oneness of mutual love and consideration, of common interests and goals than a unity secured by centering all authority in one head. Obviously, the individualistic spirit has undermined and in part superseded the autocratic; and although the gain to humanity has been great indeed, the advance has not been made without some loss. The family of the twentieth century is markedly unstable; it would seem that in some instances it has paid for the independence of its members, the costly price of its very existence or its existence in a changed and incomplete form. (46)

Let us deal with the rapid development and spread of the philosophy of individualism and selfishness during the past two or three generations. The reaction against the cold and stern collectivism of ancient and medieval philosophy, which left the rights and interests

(45a) Kreuger, E.T., "A Study of Marriage Incompatibility", pp. 53-54.

(46) Goodsell, Willystine, "History of the Family as a Social and Educational Institution", pp. 456-457.

of the individual almost if not entirely out of consideration, resulted in the philosophy of egoism and individualism of Hobbes, Locke, Spencer and others. The cry for liberty, for personal freedom, for the right of self assertion, unhampered by restraints of any kind has been strong and persistent during the past few decades. Following the World War, it has become even more widespread and pronounced than ever before. The philosophy of individualism has been gaining ground rapidly among all classes of our population and has given rise to various forms of false notions of liberty. It has tended to the questioning and undermining of such institutions of order and authority as religion, ethics, law, custom, and government, and has created movements designed to set them aside more or less completely, substituting for them the law of egoism and one's own changing whims and fancies. Liberty has become license; egoism has become law.

The extreme individualist cannot see that liberty without restraint becomes license, and that freedom from authority becomes bondage to one's own or other's shifting moods, notions and impulses. With the passing from status to contract in the social relations has also come the idea that all social relations between contractual relations, are terminable at the pleasure of the parties to the contracts, no lines of distinction being drawn as to the nature and significance of the contract or the effect its dissolution will have upon the weal or woe of others or upon the institutional life of society. The only criterion

to be followed is one's own wish and immediate pleasure. Contracts are to be entered into at pleasure and terminated at pleasure. To hold that contractual rights must be limited and regulated, consistent with the best interests of the parties to a contract as well as to society in general, is frowned upon as being an attempt to interfere with personal rights and liberties. Among the other social institutions which have suffered materially from this modern individualistic conception of social relations is also the marriage relation. It is now regarded by many as not being a social institution at all, but merely a private contract entered into by man and woman at their own pleasure and terminable at their own pleasure, the only social aspect conceded being the advent of children, and the possible advent of these, is to be prevented by birth control and the use of contraceptives. The idea of the marriage relation is thus greatly lowered, its sanctity destroyed, and its permanence rendered impossible. (47)

Nothing can seriously threaten the home but a selfish individualism which would be a reversion to type, a leap back to the jungle. Exactly this danger, the ultra-modern city family is facing. Individualism run amuck. Life in the past, was home centered. But now the urban family is fast becoming centrifugal. With the

(47) Bruce, Gustav Marius, "Marriage and Divorce", pp. 127, 128, 129

vast enrichment of life, its diversified interests, its high specialization, little is left of the old home functions. It is difficult to maintain family unity and loyalty and a home-centered life while each member of the household is restlessly bent on pursuing his own independent way of self-expression. Too often, the motives of selfish pleasure and ambition have destroyed the morale of the group. But the recent phases of the changing family are new and the chief cause is not hard to locate. In the past, family stability rested on male autocracy. It has been a man's world, and still is in most countries. With the husband kinging-it on the family throne, backed by the laws of the state, radical change in family status was next to impossible. But the cost of stability was female serfdom. Now that the woman has won complete emancipation and equality with man, we must seek a new stabilizer for the family.

In no small measure the present readjustment of the family, that is causing a good deal of disintegration as well as much progress, is the result of the new freedom of women. Their new industrial independence, both before and after marriage, is modifying the family type in subtle ways. The male tyranny is replaced by a two-headed commission! Women are spending more of the money, and are earning much of it. They demand most of the divorces, and often deserve them. They are daring to vote on the birth-rate. By the thousands they are demonstrating their ability and right to a career, and have

definitely raised the passing-mark for bridegrooms. Emancipated women having achieved full personality at last, are requiring new adjustments in marriage; some quite justified; others questionable, especially when coupled with social radicalism and the loss of religious restraints.

(48)

INCOMPATIBILITY--RELATIVES-IN-LAW.

Relatives, and particularly, mothers-in-law, are notoriously troublesome to the newly married.....It is a common observation that some of our marriage failures originate in the too great interference of the mother-in-law or the overdependence of the newly wedded man or woman upon the mother.....The mother-in-law has become a symbol of the natural obstacles that must be met by the new family in its effort to establish as an independent unit free from the surveillance of either of the parent **families**.. The marriage of their child means to parents a breaking away from long-accustomed relationships usually maintained since childhood, while for the young married couple it brings about a new alliance which automatically includes considerable intimacy and therefore has to set earlier associations at arm's length. It is not strange that the mother-in-law, husband and wife,

(48) Fiske, George Walter, "The Changing Family", Introductory XI, XII, XXIII.

all find a degree of difficulty in establishing the new status. By far the most strain is felt by the mother-in-law. Not only must she give up her precedence in affection to another, but she must have the insight to see when her help is really needed and when it is far wiser to let the young couple work out their own matrimonial salvation.

.....Recent psychology has explained the inner protest many mothers make against their son or daughter becoming independent of early home ties. There are mothers whose whole policy has been that of repressing the personality of their children. They have made use of the strong affection between mother and offspring as a method of holding their child in a subserviency which we are wont to call a mother-fixation. This program of keeping the child dependent has become a settled conspiracy against his maturing to the point of self-reliance and what we think of as typical mother-in-law behavior is merely the continuation of a life-long policy. (49)

Many in-laws cause trouble for reasons just as little understood. Parents may have been thwarted in some ambition of their own lives, and may consciously or unconsciously, have resolved to see those ambitions fulfilled in the lives of their children. Or they may

(49) Groves, Ernest R., "Social Problems of the Family", pp. 134-135.

have suffered in body or spirit, and have determined to save their children from that suffering. The mother, whose horizon has been bounded by the stove and the kitchen sink, wants her daughter to marry a rich man and "never know what is coming on the table until it is put in front of her". If daughter does not marry wealth, or if she does and the husband loses his money, the mother may bitterly resent the fact that daughter is being supported in exactly the style to which the girl has always been accustomed, especially if she is pretty, and "could have made a better match." The father who married too soon, who shackled himself with a family, and who consequently has spent his whole life on a bookkeeper's stool, may see himself suffer a second defeat when his son repeats his mistakes. All these subconscious urges color the attitude of the parents toward the young couple and make it almost impossible for them to resist the temptation to drive from the back seat. For a marriage made in the face of parental disapproval has started with a severe handicap. Unless the in-laws are among the great souls of the earth, friction with them is almost certain. Every mistake of the husband or wife is welcomed triumphantly as a sparkling proof that father was right - an attitude not calculated to arouse affection in the wrongdoer....."Don't come to me with your troubles; I told you not to marry him".....Of course she is lazy and extravagant; I pointed that out to you but you

would not listen." (50)

INCOMPATIBILITY - JEALOUSY.

The great enemy of love is jealousy. When jealousy creeps into the home, love packs up and gets ready to depart, for it cannot thrive under the perpetual tyranny of a jealous spouse. **Yet nearly** all jealousy is unfounded. It is the culmination of childish habits that have never been cast aside as the jealous person found it easier to conceal them than to go through the painful process of uprooting them....During courtship the jealous person holds in check his suspicions and tries to act like other adults, but once the marriage knot is firmly tied he goes back to his old ways with a slump, for now he seems bent on making up for the difficult self-control he had to exercise while winning a mate. He may dig up trivial occurrences of the courtship which were supposedly forgotten by both young people and rehearse them until he has worked himself into a jealous rage. At the slightest suggestion of rivalry in the affection of the mate, whether from parent-in-law, work or social activities, he may bury himself in the depths of bitter jealousy. The other member of the marriage partnership hardly dares to look at the opposite sex, much less show any of the courtesy convention demands; but it makes little difference what is done, jealousy can easily feed

itself, and the home life is poisoned by unfounded suspicions. (51)

INCOMPATIBILITY - THE RESULT OF EXPLOITATION.

The tendency of either husband or wife to exploit the other is one of the most common and perplexing of marriage difficulties. We can assume that from the start of the homemaking, one is a little more sacrificing and affectionate than the other. Being part of the new experience of pleasant intimacy, this is rather pleasant for both and it runs rapidly on until on one side there is a strong desire to sacrifice and on other a great willingness to accept the sacrifice. If this lasts for any length of time - and once started it often persists throughout life - the resultant family situation is distinctly bad for both. It has come about naturally enough, but it acts more and more against the family welfare. (52)

DISILLUSIONMENT.

Men and women do enter marriage with expectations of perfect happiness furnished by an imagination that, driven by the powerful flow of emotions and unrestrained by experience, pictures a state of bliss that nothing human could satisfy. Disillusionment in such cases, is bound

(51) Groves, Ernest R., "Social Problems of the Family", pp. 132-133

(52) Ibid, p. 131.

to come, not as a result of a serious deception in the relationship itself, but simply because fancy must at last surrender to fact. Such experiences occur constantly as the individual travels forward from childhood and tries in one way and another to fulfill his cravings. The happy husband and wife look back upon these earlier adjustments with a tender sympathy and with no sense of having been betrayed by false hopes. The fact is that more was gained by the ordeal than was lost. This transition from love-making to marriage does hold an element of danger and becomes for some married couples a cause of psychological incompatibility. The appeal of courtship for some persons lies almost wholly in its fantasy. They insist upon remaining in an atmosphere that gives them the luxury of the day dream. If the husband or wife becomes the instrument by which such a person is brought back to reality or even pushed toward it, at once upon the head of the ill-fated partner in matrimony falls the blame for having spoiled marriage. The day dreamer who has carried on from childhood the habit of castle-building is the kind of person who cannot make the adjustment from courtship to family responsibility required by wholesome marriage. Any attempt to bring the family life into accord with actual circumstances is resented and the other member of the matrimonial alliance is chided with bitterness for lack of affection.(53)

(53) Groves, Ernest R., "Social Problems of the Family", pp. 125-126

FAMILY DESERTION.

The home broken up through the desertion of one of the parties to the marriage contract is another fairly common form of disintegrated family life. Like divorce, this kind of broken home seems on the increase. Mowrer, speaks of it, for instance, as a growing family problem in Chicago, showing that it has increased faster there since 1907 than has the population. Reports from domestic relations courts and social agencies suggest that this is also the case in other parts.

Desertion has not been studied thoroughly enough nor have a sufficient number of statistics been assembled to warrant any very accurate comparisons between different sections of the country. However, it is generally taken for granted that desertion is characteristic of the urban more than of the rural family. The assumption is in all probability a true one, as is suggested by the fact that desertion has been such a popular ground for divorce, which in turn, ranked higher in the city than in the country. Thus of the 945, 645 divorces granted in the United States from 1887-1906, 415, or 43.9 per cent. were on the ground of desertion or abandonment. Still, desertion is by no means unknown at least in some rural parts.

Desertion has much in common with divorce. The motives behind these forms of broken homes are much the same. Poverty, however, is a greater factor in desertion than in divorce. Hence, desertion rather

characterizes the poorer group and divorce the middle and upper classes. In fact, desertion is often referred to as "the poor man's divorce". In these poorer homes, it frequently happens that men desert during hard times; periods of unemployment or when another child is born into the family. They leave their family behind temporarily in order to avoid a disagreeable situation or difficult obligation. Yet even when the cause is rather a matter of family incompatibility than of economic difficulty, or when the family is permanently repudiated and not only temporarily left behind, desertion rather than divorce is resorted to by many of the poorer classes, simply because they are more familiar with the former method of escape than with the more intricate procedure of the court which is necessary for the procuring of a dissolution of the legal bond by means of a divorce. Usually, too, the poorer classes have less to lose socially and professionally by resorting to desertion than those of the higher strata of society. (54)

FACING DIVORCE.

The great number of divorces which follow American marriages are perhaps part of our nation speed mania. We are living "in high". We make snap judgments, quick decisions, half formed conclusions, all in the name of efficiency. We are in again, out again, on again. Too many of us, finding one mode of life not immediately

(54) Schmiedler, Edgar, "An Introductory Study of the Family", pp. 213-214.

successful, hastily back out of it to try another, whereas, if we had been willing to persevere a little farther, we might have discovered a smooth road and a pleasant view just around the turn. Too many of us expect a marriage to succeed automatically and at once. When it does not, as it practically never will, we become impatient and cast it aside. Over a third of our divorces are granted to couples who have been married less than five years. To succeed, a marriage must be slowly and patiently nurtured. This process involves an infinite number of little discoveries, adjustments, compromises and the gradual building up of a new respect and a new confidence. A union should never be regarded as a failure, meriting disruption, until all its possibilities have been probed; for failure in marriage, no matter whose the fault, leaves permanent scars on both the personalities involved.....(55)

DIVORCE - AN ENEMY OF MARRIAGE?

It is a widespread idea that divorce is the enemy of marriage, and, if made easy might prove destructive to the very institution of the family. This view, I cannot share. I look upon divorce as the necessary remedy for a misfortune and as a means of preserving the dignity

(55) Wile, Ira S., "Marriage in the Modern Manner", pp. 245-246.

of marriage by putting an end to unions that are a disgrace to its name. The existence of marriage does not depend on laws. If marriage is not an artificial creation but an institution based on deep-rooted sentiments, conjugal and parental, it will last as long as these sentiments last. And should they ever cease to exist, no laws in the world could save marriage from destruction. (56)

ALLEGED CAUSES FOR DIVORCE.

Foremost among the causes for which divorces were granted in 1924 were cruelty and desertion. Adultery ranked third and the percentage of divorces granted to husbands for adultery were almost twice that granted to wives. The conventions which underlie this action are readily understood. Women can more easily obtain divorce for cruelty or desertion than can men, and they prefer, therefore, to allege these as grounds for divorce rather than endure the unpleasant publicity which attaches to cases where infidelity is charged. On the other hand, the husband, is perhaps on the safest ground when he alleges adultery as a cause for divorce, since the presumption in favor of granting a divorce under these circumstances are very strong. The greater presumption in favor of the man under these circumstances is based upon the biological argument which is still very strong in the public mind.

(56) Westermarck, Edward, "Marriage", pp. 114-115.

Most women today insist that a single standard of conduct in sexual matters must prevail for both men and women, and that the standard must be one of continence before marriage and fidelity after marriage. Most men are still of the opinion that their wives should come to them as virgins, and that any unfaithfulness after marriage must result in a severance of the marital ties. Since men have long expected this standard of women, the belief seems to prevail that it is the "highest standard" attainable, although the reason which led to its establishment, the "danger of confusion of progeny", has long since disappeared with the development of method for preventing conception. However, the seriousness of the offense of adultery is reinforced by the religious concept of purity in relation to sexual behavior and the belief that sexual experiences outside of the sanctioned relationships, even though attended by no undesirable consequences, may be a cause for greater injury than the lack of any fundamental trait of character. In fact, the term "virtue", as applied to an unmarried woman in the past, has reference to possession of a specific physical integrity, and her rating as respectable or non-respectable was determined by her bodily state with slight regard to mental or spiritual qualifications.

After marriage she still possessed "virtue" if she remained faithful to her husband and her behavior in this regard was rated as more important than that in any other.

This materialistic conception of virtue has now been extended to men as well, and their failure to meet its requirements causes many divorces; and in cases where it does not result in divorce, it occasions much bitterness and recrimination in the home. Many families in which a happy adjustment of personal relationship existed have broken up suddenly because of a single lapse on the part of husband or wife, and community sentiment has heartily approved the refusal, as justified by the provocation, of the unoffending partner to continue the relation. The concept of the property rights of husband and wife in each other finds its highest expression here, and this will doubtless persist so long as such an attitude is considered just and natural. (57)

LENGTH OF MARRIAGE AND DIVORCE.

Nearly two-thirds of the divorces are granted to couples who have been married less than ten years, the greatest number occurring in the fourth year of marriage. It is apparently during the first years of marriage that differences of temperament and opinion assert themselves, and these differences, if they become unendurable, culminate in divorce. After many years common interests and activities may tend to prevent divorce, and as the parties grow older they become less vigorous in the assertion of their

(57) Reed, Ruth, "The Modern Family", pp. 153-154.

needs. It may be assumed that marriages which have lasted beyond ten years represent a condition of amicable adjustment on the basis of common interests. On the other hand, it may also be that the parties, after having been persuaded to endure an unhappy union for ten years or more, become so inured to the hardships and so hopeless of finding a more suitable relation, that they simply abandon the struggle and resign themselves to their unhappy state. (58)

WOMEN AND DIVORCE.

Approximately two-thirds of the suits for divorce initiated in the United States in 1924 were brought by women. This fact is taken by some persons to indicate a condition of greater restlessness and discontent with modern marriage on the part of women than on the part of men. Other factors might, however, account for it. The tradition of chivalry with respect to the woman's prerogative in terminating a sexual companionship is still strong. Then too, it is generally believed that the courts are more lenient in their attitude toward divorce petitions presented by women than they are toward those presented by men. A man may suffer injury to his pro-

(58) Ibid., p. 153.

fessional or business standing if he publicly brings a divorce suit against his wife. Furthermore, business responsibilities may make it impossible for him to go from one state to another to seek a divorce. Since the wife is usually freer to change her place of residence, in case of a family severance and since she possesses more leisure time, it is often easier for her to initiate legal proceedings.

It must be true, nevertheless, that women are more ready to terminate marriage than they used to be because of their increased opportunities for economic independence. A woman of training and experience can usually find work of an interesting and remunerative nature if she has not been long absent from her employment, and because of the knowledge that this course is open to her she may be unwilling to endure conditions to which otherwise she would be compelled to submit. Then, too, if she has been employed before marriage she has become accustomed to a large measure of economic and social independence and therefore finds it impossible to submit to family restrictions which would have been inevitable in a patriarchal form of family life. Conventional ideas with regard to what wives should or should not endure are rapidly changing, and a modern woman may feel obliged to judge herself aggrieved by a situation which women of an older generation would have regarded as

quite tolerable. (59)

CHILDREN AND DIVORCE.

In 1924 only 35.7 per cent. of the applicants for divorce reported children; 53.9 per cent. reported no children and the remaining 10.4 per cent. did not report whether they had children or not. There was a small decline with respect to previous years in the proportion reporting children, but it is difficult to say whether this was due to the decreasing proportion of couples with children or to an increased disinclination of couples with children to break up their homes.

Much has been said of the necessity of holding a home together for the sake of the children. The assumption is that children who are not in constant association with both of their parents are greatly handicapped in their training and in their opportunities for achieving a happy adjustment to the responsibilities of adult life. It is believed that the mere fact of divorce will deprive the child of the society of at least one of its parents, and produce in him or her an emotional tension which will result in conflicting loyalties and consequent mental stress. These predictions of disaster for the child are based upon the belief that the divorced parents will either

(59) Reed, Ruth, "The Modern Family", pp. 149-150.

hate each other or at least regard each other with such disapproval that the child will be required to take sides with one or the other, to his great emotional and spiritual detriment.

The belief that parents must sacrifice their happiness and chance of individual development for the sake of the child is based upon a misapprehension as to the child's real nature and his needs and the conditions under which they can best be met. Family relationships today are so little concerned with economic and social functions and so largely a matter of personal relationship that differences of opinion and temperament have come to be of fundamental importance. The welfare of the child is dependent upon the vigor, the resourcefulness and the happiness of parents much more than upon the mere number of hours they spend together in his society, so that the maintenance of a home without a basis of harmony and agreement between the parents, constitutes a lamentable instance of social waste. If the parents are incompatible, the child constantly sees them at their worst instead of under circumstances so favorable that he might be expected to gain something from the association. Moreover, the child is subjected to the constant strain which grows out of the incompatibilities of his parents, and their moments of depression and dissatisfaction are reflected in his mood. (60)

(60) Reed, Ruth, "The Modern Family", pp. 150, 151, 152-153.

NEEDED CHANGES IN LEGAL AND SOCIAL APPROACH TO
DIVORCE.

What are the main points of change in our legal and social approach to the divorce situation which the modern need for social control through democratic measures, demands most clearly and strongly? They are, first, a longer period of delay between reception and granting of the request of a man and a woman for a license to marry. Several state legislatures are now considering statutes which require an "interval of three days" between the application for and the granting of marriage licenses. This is certainly a short enough time in which to find out if either of the parties is likely to commit bigamy if the license is granted, if both of the parties are really of adult age claimed, if either of the parties is afflicted with an infectious disease that would make marriage dangerous to the other party, if either of the parties has been a resident of a criminal or pauper institution, if either or both of the parties are competent of financial support, if there is any "just cause" or impediment against the legal union. We may find it wise to return to the old "three weeks publishing of the banns", in order to know what the state is about in granting and what two people are about in demanding a marriage license. In the second place there are limits outside of which society should not allow legal marriage to receive its sanction. During the legal interval required there may develop knowledge of facts that make it a social crime

for one or the other or both parties to be allowed to start a new family. This is a matter for serious and long continued study, and the experimentation of our different commonwealths in determining the useful or necessary restrictions upon legal marriage is not without value. The main thing, however, is for society to recognize that there are just restrictions upon marriage and this is proved by the actual social burden which unfit persons place upon their fellows when marrying and bringing forth after their own kind. The third point, which must be emphasized more strongly than has been the case heretofore, is the need of making the state, through its courts, the ally, not the enemy of marriage permanency. As it is now, the Divorce Court exists to secure divorces. Its very existence invites to its use. The court procedure in all cases of marital unhappiness which has become acute enough for legal freedom to be sought should be a court procedure that aims at arbitration, at "trying again", at winning harmony by just concessions from either or both the parties, a court procedure consciously and definitely set to the task of making more marriages successful even when they have developed difficulty of adjustment, rather than one allowed to act as a means of easy separation of even fickle, selfish and childish people on grounds of superficial difference...(61)

(61) Spencer, Anna Garlin, "The Family and Its Members", p. 238.

A justly famous declaration was made by the White House Conference, 1909, which was called by President Roosevelt. It stated in part that "Home life is the finest and highest product of civilization. It is the great moulding force of mind and character. Children should not be deprived of it except for urgent and compelling reasons. Children of parents of worthy character, suffering from temporary misfortune, and children of reasonably efficient and deserving mothers who are without the support of the normal breadwinner, should as a rule, be kept with their own parents, such aid being given as may be necessary to maintain suitable homes for the rearing of children."

Again, the Conference on Child Welfare Standards, held under the auspices of the United States Children's Bureau in 1919, declared: "Every child should have normal home life.....Unless unusual conditions exist, the child's welfare is best promoted by keeping him in his own home. No child should be removed from his home unless it is impossible to reconstruct family conditions or build and supplement family resources so as to make the home safe for the child, or so ~~xx~~ to supervise the child as to make his continued presence safe, for the community.

Finally, we find these words as one of the aims of the Children's Charter issued by the White House Conference on Child Health and Protection called by President Hoover in 1930. "For every child a home and that love and security which a home provides; and for that child who must receive foster care, the nearest

substitute for his own home. Also, there are these extracts from the reports of this Conference; Child welfare organizations should be primarily interested in the protection and preservation of family life rather than in offering substitutes for it....The family is the richest medium for the nurture and development of the child.

Where the essentials of family life exist, even incompletely, every effort should be made to keep the child with his own mother and father. Their home is his rightful place. The sense of belonging meets one of his own fundamental needs. He feels himself secure in a world of strangers and dangers.....The need of the dependent child for what his own family can give him is exactly the same in kind as that of any other child, but more urgent perhaps because of experience in hardship.

THE PRESENT STATUS OF THE COURT OF DOMESTIC RELATIONS.

CHAPTER III.

The Court of Domestic Relations (Family Division) otherwise characterized as the "House of Tragedy" represents one of the most difficult social problems of the modern age. With prevalent complexities wrought by the changing mores due to drastic economic and general social conditions, the home was not only affected morally and religiously but reacted with a degenerating effect upon individuals who are responsible for its harmonious status. Thus we find that this court ultimately becomes the rendezvous of all the social horrors resulting therefrom. It is utterly impossible to expect that the Justice and his staff are in a position to apply a panacea to all social ills, for from a legal point of view the intent and purpose of this instrumentality are primarily to safeguard individuals against becoming public charges upon the city.

A great deal has been done by social agencies and members of the staff to alleviate many of the anti-social eruptions which arise out of domestic chaos, but without avail, for the social qualifications and equipment necessary to do this work are sorely lacking. Presiding Justice Edward F. Boyle, in his Annual Report (1933) admits this situation when he says:

"Of course, there is much experience and study

ahead of us as regards this wholly new instrumentality set up by the State to deal with non-support cases and certain family problems connected therewith; to deal with them in a very different fashion from that which obtained in the past. (1)

Again, Justice Boyle argues: "It is a question of service, its sufficiency and character. To what extent is the City willing to witness the service curtailed and for how much longer" "It reduces itself to a welfare problem, for the court today, is in law as well as in fact, designed as a welfare agency of considerable size, and if provided with the resources for advanced social administration, such as the clear implications of the new law requires, it can become one of the greatest social laboratories in the world, as it is now the largest court of its kind anywhere. (2)

The seriousness of this situation is statistically presented when Justice Boyle declares that out of the 5,103 new petitions (last quarter of 1933), 3,506 or about 70 per cent. involved children and their welfare. The remainder of 30 per cent. were in behalf of wives or poor relatives. This suggests, among other things, a modification in our approach to what we loosely call the family problem as presented in the Family Court.

(1) "Annual Report of the Domestic Relations Court" of the City of New York, 1933, pp. 13-14.

(2) "Annual Report of the Domestic Relations Court" of the City of New York, 1933, pp. 25-26.

Consideration of the figures makes that part of the family problem relating to the welfare of the children involved, loom very large and may upon further examination and reflection lead towards greater emphasis upon the problems of children as they are reflected in the work of the Family Court. (3)

If we were to determine from the legalistic point of view the position of the Family Court regarding its peculiar responsibilities to the municipality, it may be wise to offer a summary of the new legal status of this institution today. It constitutes the following changes:-

The fundamental change in the character of jurisdiction to a non-criminal basis.

The fact that the petitioner may become a public charge need not now be alleged or proved. The test is the petitioner's right to support from the respondent.

Orders of support may now be made up to \$50. per week.

It is no longer necessary that a wife be shown to be physically or mentally disabled, provided she be incapacitated or unfit for or incapable of earning her own living or unable to obtain suitable employment.

The court may now compel the support of poor relatives by certain other kin, such as grandparents, parents, children and grandchildren. Step-parents too, are made responsible for the support of step-children,

(3) Annual Report of the Domestic Relations Court of the City of York, pp. 25-26.

if it be shown that he or she was aware of the existence of the child at the time of the marriage.

Where orders of support have been made by the court, conditions of behavior may be imposed upon either spouse, through what is called "an order of protection", copy of which including particulars is furnished the protected party so that the power of the police may be invoked to enforce these provisions under pain of arrest of the offending party.

The court may award temporary custody of children pending the disposition of the case.

Mental and physical examinations may be ordered as to any of the parties to a proceeding and the court is empowered to sit as a magistrates' Court, with a view to making commitments of either party for examination in proper cases.

The court may hold any of the parties for disorderly conduct; may parole a person charged with failure to support; may punish for contempt of court and may vacate or amend on its own motion any order or commitment previously made.

In actions for support, a husband or wife may testify against the other; and although one of the parties to a controversy involving failure to support may not without authorization by the court serve any process of the court on any other party thereto, the clerk of the court is authorized and empowered to certify to the issuance of a warrant and such certificate when

handed to a peace officer gives him the necessary authority to make an arrest as called for in the warrant. This is a new process in the State of New York.

Banks and other fiduciary institutions or organizations are required, upon order of the court, to disclose information as to funds or assets to the credit of a party to an action involving support.

Careful provision is made, to the end that annoyance of employers is reduced to a minimum, thus avoiding possible disturbance of the relations between employer and employee, including possible loss of a job.

Agreements for support are authorized, if submitted to and approved by the court, which approval is predicated upon proper inquiry into the facts.

On the administrative side, administrative control is more centralized than before; the Presiding Justice having a much larger measure of control over the staff of the court than existed under the old order. Executive control by the Presiding Justice is exercised largely through a Director of Administration (the former chief clerk of the Children's Court).

Provision is made for new buildings for the Family Court which under the law must be physically separated from the Children's Court.

Not the least of the more modern provisions of the new law is that requiring that the court cooperate with welfare agencies, to the end that in proper cases, not only shall justice be rendered from the legal

standpoint, but also that consideration be given and remedies afforded as a matter of social justice where misfortune, ignorance, illness or any other of the many ills which beset people who come before the court are apparent and may be remedied by proper attention through the assistance provided for. (4)

In accordance with the statutory privileges regarding "Jurisdiction and Powers" accorded the Family Court in the new act we find upon analysis that they constitute purely a legal whip upon the individual or individuals responsible for the wreckage of the home. In Article I, sections 91 and 92 of the amended act, we find the following legal strictures:-

JURISDICTION. The family court shall have:

(1) Jurisdiction within the city to hear and determine all proceedings to compel the support of a wife, child or poor relative; and

(2) In proceedings properly brought before the court for the support of a wife, child or poor relative, it shall have

(a) jurisdiction for the protection, guardianship and disposition of neglected or dependent minors; and

(b) jurisdiction and powers conferred by law upon magistrates, police justices and justices of a court of special sessions, so far as may be necessary to carry out the provisions of this act; and

(3) Jurisdiction within the city in all

(4) Annual Report of the Domestic Relations Court of the City of New York, 1933. pp. 34, 35, 36.

cases or proceedings against persons charged with failure to obey an order of the court made pursuant to authority conferred by law.

POWERS. In the exercise of its jurisdiction the court shall have power

(1) To order support of a wife or child or step-child or both, irrespective of whether they are likely to become public charges.

(2) To include in the requirements of an order for support the providing of necessary shelter, food, clothing, care, medical attention, expenses of confinement, the expense of educating his child, the payment of funeral expenses, and other proper and reasonable expenses.

(3) To require of persons legally chargeable with the support of a wife, child or poor relative and who are possessed of sufficient means or who are able to earn such means, the payment weekly, or at other fixed periods, of a fair and reasonable sum for such support, or as a contribution towards such support, according to the means of the persons so chargeable; provided, however, that the amount that the court may require a respondent to pay for the support of the petitioner shall not exceed fifty dollars a week.

(4) To make all orders for support run until further order of the court, except that orders for support of a child shall run until the child is sixteen years and beyond the child's minority as such physical or mental disabilities may continue.

(5) To require the support of a wife who needs support where there are no children, even though there is no physical or mental disability, where she is industrially incapacitated for self-support.

(6) To make an order for support of a wife by the husband, even though she may have left the home, in cases where the husband's conduct or condition or his cruel or inhuman behavior made it unsafe, improper or undesirable for her to continue to live with him.

(7) In a case where a child is involved to make an "order of protection," in assistance or as a condition of an order for support, setting forth conditions of behavior to be observed for a specified time which shall be binding upon husbands or wives, or both, as circumstances may require, and which must be reasonable.

Such orders may require either spouse

(a) To stay away from the home or from the other spouse or children.

(b) To permit the other to visit the children at stated periods.

(c). To abstain from offensive conduct against the other or against the children.

(d) To give proper attention to the care of the home.

(e) To refrain from acts of commission or omission that tend to make the home not a proper place for the other spouse or the children.

(8) to award the custody of the children, during

the term of such order of protection, to either spouse, or to an appropriate relative within the second degree. But nothing in this act contained shall vest in the family court the power to place out or board out any child or to commit a child to an institution or agency, except as provided in subdivisions eighteen and nineteen of this section. In making orders of protection, the court shall so act as to insure that in the care, protection, discipline and guardianship of the child his religious faith shall be preserved and protected.

(9) To require the support by those legally chargeable therewith of a dependent adult who is unable to maintain himself and is likely to become a public charge; evidence that he is without means shall be presumptive proof of his liability to become a public charge, and the respondent shall be deemed to be of sufficient financial ability to contribute to his support unless the contrary shall affirmatively appear to the satisfaction of the court or a justice thereof; the court to determine and apportion the amount that each such relative shall be required to contribute, as may be just and appropriate in view of the circumstances of the case.

(10) To determine the manner in which sums ordered paid for support shall be paid and applied.

(11) To require a person ordered to support another to give security by a written undertaking that he will pay the sums ordered by the court for such support, and when appropriate to discharge such undertaking.

(12) In lieu of requiring an undertaking, to suspend sentence and place on probation a person who has failed to support another as required by law, and to determine the conditions of such probation and require them to be observed; to revoke such suspension of sentence and probation, where circumstances warrant it, and to discharge a respondent from probation.

(13) To commit to jail for a term not to exceed twelve months, a person who fails to obey the lawful orders of the court. Such commitment shall not prevent the court from subsequently committing him for failure to thereafter comply with such orders.

(14) To hear and determine charges for non-support under the provisions of section one hundred and two.

(15) To release on probation prior to the expiration of the full term a person committed to jail for failure to obey an order of the court or upon conviction for non-support, where the court is satisfied that the best interests of the family and the community will be served thereby.

(16) To modify or vacate any order issued by the court.

(17) To remand for not more than five days for purposes of investigation, to admit to bail, and to parole on his own recognizance or in custody of counsel, a person charged with non-support.

(18) To order either before, during or

after a hearing, a mental, physical and psychiatric examination of the petitioner or respondent.

(19) To commit for purposes of observation, in the manner provided by law for a magistrate, a person before the court who the court has reason to believe may be insane.

(20) To hold court as a magistrate to hear and determine charges of disorderly conduct by either the petitioner or the respondent affecting the other, or the child of either, where the family is already before the court in a non-support proceeding.

(21) To exclude the public from the courtroom in a proper case.

(22) To punish any person guilty of a contempt of the court as provided by section fifty-seven.

(23) To send process or other mandate in any matter in which it has jurisdiction into any county of the state for service or execution in like manner and with the same force and effect as similar process or mandates of county courts as provided by the civil practice act.

(24) To compel the attendance of witnesses.

(25) To make any order necessary to carry out and enforce the provisions of this act.

The law continues to deal with the legal process regarding "Legal liability for support, "Punishment for failure to support" and "Residential Jurisdiction".

In Article 2, Sections 101, 102 and 103, it reads as follows:-

Legal liability for support.

1. A husband is hereby declared to be chargeable with the support of his wife and children, and if possessed of sufficient means or able to earn such means, may be required to pay for their support, a fair and reasonable sum according to his means, as may be determined by the court.

2. Where the father of a child is dead or is incapable of supporting his child or cannot be found within the state, the mother of such child is hereby declared to be chargeable with its support and, if possessed of sufficient means or able to earn such means, may be required to pay for its support a fair and reasonable sum according to her means, as may be determined by the court.

3. Where the father of a child included in a petition for support is dead, or where the court, in its judgment, is unable to secure adequate support for such child from its parents, and the child's grandparents are of sufficient means to support it, said grandparents are hereby declared to be chargeable with the support of such grandchild and may be required to pay a fair and reasonable sum according to their means, as may be determined by the court..

4. The parents, the grandparents, the children and the grandchildren of a dependent adult who

has been a resident of the city at any time during the twelve months preceding the filing of the petition for his support, and who is unable to maintain himself and is likely to become a public charge are hereby declared to be severally chargeable with the support of such poor relative. The court shall determine and apportion the amount that each such person shall be required to contribute, as may be just and appropriate in view of the circumstances of the case and their respective means.

5. The step-parent of a child is hereby declared legally chargeable with the support of a step-child likely to become a public charge, provided it is shown to the satisfaction of the court that such step-parent had knowledge of the child's existence at the time of said parent's marriage.

102. Punishment for failure to support.

A person chargeable with the support of another as provided in section one hundred and one, who fails to provide such support is guilty of non-support and may be punished by imprisonment in jail for not exceeding twelve months.

103. Residential jurisdiction.

A husband or father may be required to furnish support or may be found guilty of non-support, as provided in the two preceding sections, if, at the time of the filing of the petition for support,

- (a) he is residing or domiciled in the city; or
- (b) he is not residing or domiciled in the city but is found therein at such time, provided that the petitioner is so residing or domiciled at such time; or

(c) he is neither residing nor domiciled nor found in the city but prior to such time, and while so residing or domiciled, he shall have failed to furnish such support or shall have abandoned his wife or child and thereafter shall have failed to furnish such support, provided that the petitioner is so residing or domiciled at such time. (As amended by Chapt. 362, Laws of 1934).

The preceding data was purposely presented in order to prove that the court of domestic relations is solely a legal instrument in handling domestic problems. We are prepared to recognize that the problems resulting from domestic relations are primarily social and not legal, even though we may not overlook the fact that the judicial function is to properly execute many of the decisions reached by the social worker.

Judge Jonah J. Goldstein rightfully declares that "problems affecting the integrity of the family logically belong to a Family Court. It is true, they involve legal questions, but if the decisions are merely legalistic, they may and do work grave injustice to parents and children. (5)

He again avers that "the Judge is and should be the titular head of the court. In determining legal

(5) Goldstein, Jonah J., "The Family in Court", p. 143.

questions he is the absolute head. But as has been so often reiterated, the Domestic Relations Court, is very much less concerned with questions of law, than it is in such matters as health, housing, wages, sickness, mental status and the like. These are problems which, so far as they can be solved by investigation or technical skill, cannot wisely be solved by a Judge. He has not the equipment to do so. (6)

However, Judge Goldstein has a tendency to go to extremes in his conception of the function of the Domestic Relations Court, he says "to make this Court the social institution it ought to be, would require very little external change. The judicial throne could be surrendered with advantage. (7)

There is emphatically a judicial side to this work which must not be overlooked regardless of what social and religious workers, psychiatrists and others employed in this work may do or say. Unless there is an express legal compulsion behind their decisions, their work will ultimately prove valueless. The Judge of the Court of Domestic Relations must remain. He is in a position to vigorously put into practice the conclusions and decisions reached by these agencies.

(6) Goldstein, Judge Jonah J., "The Family in Court", p. 214

(7) Ibid., p. 220.

SOCIAL DOCTORING.

Anna Garlin Spencer makes the following suggestion in this regard. Another way by which society should undertake to provide in newer and more democratic forms the supervision, the control, and the support of the married couple and their children, which the older collective family organization ought to supply, is an earlier and a better use of the Domestic Relations Court, or of some advisory agency to prevent the breaking up of families. There should be something analogous to the old "family council", some body of advisors well known and well equipped for actual service, to help the bewildered and the unhappy. The religious ministry should be able to supply such help. It often does so. The circle of friends may sometimes contain those of wisdom and understanding who give needed aid toward a resumption of broken relations on a higher and more enduring plane. We need more an aid to avoidance of marital rocks than a rescue, as from a lifeboat, after the shipwreck.

There are many forms of advice and help which the teachers and medical practitioners in medical hygiene are now developing and offering which may be used later on, when we are wiser, in this work of preventing families from breaking up, regularly constituted "social doctoring" for the prevention, even more than for the treatment of social disease as it manifests itself in family

life, is surely called for. (8)

The development of the Family Court, had its origin in the recognition of the fact that not the individual but the family is the unit of society and that certain so-called crimes, misdemeanors and delinquencies could no longer be treated by the ordinary and existing judicial process, but that they required special care and treatment. Thus was initiated the movement to supersede the traditional individualistic point of view by a definite social policy. The first point of this new policy was the establishment some twenty years ago, of the Juvenile Court, for the primary **purpose** of removing the child charged with delinquencies from the contaminating influences of an ordinary police court or court of criminal jurisdiction. The original idea has been extended and developed until juvenile courts have become what Judge Hoffman calls "child saving institutions".

The Domestic Relations Court was the next development along the lines of the family court and within very recent years a comprehensive family court with complete legal and equitable jurisdiction in family matters has found favor in the thought and inclusion in the recommendation of jurists and social reformers. (9)

An optimistic note is expressed by Charles Zunser regarding this court when he declares that Domestic

(8) Spencer, Anna Carlin, "The Family and Its Members", pp. 240-241.

(9) Liebman, Walter H., "A paper read before the National Conference of Jewish Social Workers in Atlantic City in May, 1919.

Relations Courts have been proven more responsive to the social viewpoint through their better understanding of the neglected family. Progressive and constructive changes in our administration of justice have been obtained, but the treatment of the problem of family desertion is still in the early stages of development.

The Legal Aid societies can join social workers and other forward looking elements in their community in helping to enact more modern and enlightened courts of domestic relations. They can join forces to the end that the deserted wife and children may be given quick and effective relief. They can help the court to perfect machinery for bringing about reconciliations or arrangements of separate support without recourse to the law itself. They can help to bring about a better and more effective probation system, by cooperating with public or semi-public employment or labor agencies, or better still, by the establishment of such agencies as an adjunct of the court itself, they can materially reduce the number of non-support cases wherein the primary factor is an economic one. They can help perfect the machinery for instituting a search for absconding deserters. They can bring about a more effective cooperation between the courts on the one hand, and legal aid and social service agencies on the other. (10)

A substantiated pronounced social element in

(10) Zunser, Charles, "The Domestic Relations Courts"

this court is explained by the Hon. L. B. Day, in "A Unified Court Dealing with Family Matters", when he avers that the problems presenting themselves to a court handling family matters are social problems more than legal. The disposition of one case involved in the family relationship must always be disposed of with a proper regard for the other relationship involved. For example, a non-support case may be so handled as to improve family relationships, or its disposition may entirely destroy those relationships. In dealing with these cases, the court deals with the effect and not the cause, and in the usual method of court procedure the court is usually blissfully ignorant of the trouble. It is a social problem, to adjust the relationship of the members of that family, rather than one of a criminal prosecution. A conference with an experienced and trained worker by husband and wife, accomplishes more than the arrest of the husband. If this fails, then the probation laws give the family another chance for adjustment under the supervision of the probation officer. If family case work fails, and it develops that the husband deliberately refuses to support his family, he can still be punished under the criminal laws. If this were done in the first place, it would be impossible for him to support his family in jail, it would embitter him to such an extent, as to cause him to be unwilling to attempt to help, and might eventually lead to divorce, and thereby entirely destroy the family relations. But the case

work method is only possible for a court supplied with a probation staff, which can do this work. (11)

THE LAWYER IN THE COURTROOM.

Various opinions have been expressed regarding the place and position of the attorney in the court of domestic relations. In the author's experience, the place of the attorney is negligible in this type of work unless he is so socially minded and trained as to understand the multifarious factors entering into family relations. Of course, it is assuming an idealistic point of view to expect the attorney to magnanimously give of himself to this work.

There are some decided views on this question. George Walter Fiske takes a drastic position when he says "the sooner the ordinary courts turn over the whole matter of divorce to special courts of domestic relations, the better for the American family. Among the causes of divorce, we should have to rank shyster lawyers high in the list. They should be eliminated entirely from the picture. In fact, many high-minded lawyers have eliminated themselves and refuse divorce cases. It should never be necessary for any abused wife or husband to go to a lawyer for help in domestic troubles. The most

(11) Day, Hon. L.B., "A Unified Court Dealing with Family Matters" p. 152.

effective work of family rehabilitation is done with no lawyer in the courtroom, but only the judge and the couple involved. Select the best available man or woman, with human sympathy and discernment, tactful patience, persuasiveness and common sense in addition to legal training, as judge of domestic relations, and half of the divorces will be prevented. This is already proved by experience. For more than ten years, the judges handling such cases in Cleveland, by their tactful, sympathetic, skill, have prevented more divorces than they have allowed. They have become a great force for social justice and moral protection and have certainly reduced the tragedy of broken homes. Social clinics rather than court procedure will be the future treatment of this social disease."

In no uncertain terms may we conclude that this social institution must be served by the various agencies touching the family. The author is primarily concerned with the position of the Rabbi as a functionary in the Court of Domestic Relations, dealing with the social problems of the Jewish family.

It is his purpose to present in the next chapter the prerequisites necessary for such functionary in this court.

THE RABBI AS A FUNCTIONARY IN THE COURT
OF DOMESTIC RELATIONS.

C H A P T E R I V .

In Article 3, Section 118 of the new legislative act dealing with the Domestic Relations Court (Chapter 482, Laws of 1933, as amended) we find specific recognition of the value of effort to conciliate certain types of cases confronting the court. It reads as follows:

"Except where the circumstances indicate it to be undesirable, in all cases where an application for support has been made, an effort shall be made by the investigation section to restore harmonious relations between the petitioner and the respondent and to adjust the issues raised by the application through conciliation and agreement. A report in writing shall be made to the court in each case of the efforts thus made at conciliation and the result thereof, which shall be part of the case history. Where an agreement for the support of the petitioner is brought about, it must be reduced to writing and submitted to the court for approval. The court where possible shall see both parties, and shall inquire of each whether the agreement, which he must state to them, is what they have agreed to. If it is, and the court shall approve it, the court without further hearing may thereupon enter an order for the support of the petitioner by the respondent in accordance with such agreement, which shall be binding upon the respondent,

and shall in all respects be a valid order as though it had been made after process had been issued out of the court. The record shall show that such order was made upon agreement."

In Section 116 of the same Article, the Court is instructed to cooperate with other agencies as follows:

"Where it appears that other social agencies, either public or private, have dealt with and have knowledge of the family, it shall be the duty of the investigation section to confer with such agencies, to request from them in summary form a statement of their information and efforts, and their views as to the proper treatment of the case and to report this in writing as part of the case history. Information thus obtained shall be deemed confidential information furnished to the court. The court may at any time request a social service agency, either public or private, to interest itself in the family and report to the court any recommendations it may have to offer relative thereto, to the end that the best interests of the family may be served thereby."

Recognition is therefore given to the very important part played by those agencies which are capable of exercising their prerogatives toward the rehabilitation of the home. It must not be overlooked, however, that these instrumentalities are primarily engaged outside of the courthouse. Whenever, such an agency allocates its representative within the courtroom, there is a tendency

for the litigants to look askance at such an individual fearing that their confidence will be betrayed. Again, this individual is often mistaken by the litigants as a court officer. The question naturally will follow: Who shall this individual be? How should this individual be professionally equipped to do justice to this type of work? What position, if any, shall he hold in this court?

For the past four years, the author has been the unofficial Jewish arbitrator of the Court of Domestic Relations in Brooklyn. He had at first been invited to arbitrate certain complicated cases which came to the attention of Mr. Louis Wolff, administrative clerk of this court. Upon personal observation, he has reached a conclusion that even though there is a decided place for the various existing social agencies in the work of this court, there should be set up a form of refereeship assumed by clergymen representing the Jewish, Protestant and Catholic faiths who are intellectually, psychologically, socially and humanely equipped to interpret and understand the peculiar problems arising out of the home lives of their respective people. These arbitrators should have the privilege of making decisions in these cases and then have them executed as proper legal instruments with the consent and signature of the presiding justice. Of course, only those cases which are subject to arbitration shall reach these arbitrators. Any case which implies a legal question shall immediately be brought before the presiding

justice. This innovation may be followed with another question. Why do you emphasize the fact that a minister ought to occupy such a position and why not a layman? The answer is perhaps obvious. The minister of any of these three divisions is one who has through experience dealt with his people and has a very fine understanding of their psychology and background. In chapter one of this book, will be found a general portrayal of the historical Jewish home. Amongst the Jewish people there is a natural tendency to perpetuate many of the mores which have been historically and traditionally established, and then the peculiarities brought about through a period of adaptation and social assimilation must be understood by one who has dealt with such specific situations.

The ministry has undergone a metamorphosis within the past century. Orlo J. Price, in "The Biblical World" says that there is a "rapid differentiation of function" within the ministry due to the widening sphere of the church in recent years. He urges the church to train specialists rather than general practitioners and suggests that the tasks of the "prophet, engineer, educator" or the "preacher, teacher, business controller, music leader, community pastor and social worker" are each sufficient to demand the full time of one individual. He says that one person attempting all of these "lives below the line of personal efficiency for lack of salary." In another article, "The Theological Seminary and the Needs of the Modern Church" (Religious Education, October, 1916)

Dr. Price sums up the church's needs as to leadership, as preaching, instruction, organization for effective service, and pastoral work. (1)

The church is thereby assuming a social position in the community due to ministerial effort. As the work of the church grows more complex, the church will desire to have within its ministry experts who can wisely and efficiently make the church a servant to the many. There is room today for the expert in social amelioration in the leadership of the church. (2)

It is not true that the supreme task of religion is to deal with great needs in all their aspects, collective and individual. Science may make its contribution to the thought and comfort and energy of the world, but science, because it deals with processes and not with origins and destinies, can never give men final clues to life; cannot comfort them in their misery and cannot reach into their lives with moral power. The ultimate things belong to religion. And to think deeply and wisely and practically for and in behalf of people; to heal and console and watch with them in hours of darkness, when there may be none else to watch; and to build up lives, to put new incentive into them, and set them on their way rejoicing and giving joy - this is the business of the

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- (1) Price, Orlo J., "The Significance of the Personal Equation in the Ministry", "the Biblical World" August, 1916.
(2) Slattery, Charles L., "The Ministry", pp. 131-132.

ministry, and it takes the best energy of the best men to make even a faint attempt to do it. There must be a group of men set apart as servants of society who have the leisure to study and think in its behalf about these great matters on which the hopes of men ultimately depend. And because the life of a minister is continually given to those activities which, while ignoring no facts of misery and pain, yet emphasize what is bright and worthwhile and of eternal value to life; because his life is planted deep amongst his people, and is the most fully shared life in all the community, therefore he should increasingly become the richest and mellowest personality in his neighborhood, literally the father of his flock. No other man has such a privilege in helping people to bear their burdens; no other man is so charged of God to cry against injustice and evil with the same basis of love; no other man so sums up in himself and interprets for his people the highest and best aspirations of their lives, as does the minister, when he is doing the work which he was called to do. (3)

THE MINISTER IN SOCIAL SERVICE.

There is a decided place for the minister in the field of social service. Eleven years ago, the College of Agriculture of the University of Wisconsin established

(3) Shoemaker, S.A., "A Young Man's View of the Ministry" pp. 47-48.

a rural leadership summer school designed primarily for clergymen which has come to be one of the recognized national rural summer training schools for the Episcopal Church. The predominant denominations represented are Episcopal and Methodist.....

The request for a case council or clinic came from the clergymen themselves. It was also suggested by one of them that there be deduced from the discussion a series of case work principles to guide clergymen. A committee was selected from the group which drew up the following case work guides:

(1) A minister will often be called upon to do social case work in rural communities due to lack of qualified workers in that specialized field. In the case of emergency and because there are no immediate experts upon whom he may rely, it may be his business actually to make analysis and recommendations and to carry the same out himself.

(2) It is a minister's incidental but important prerogative to interpret and understand problem cases and in a great many instances to make a preliminary analysis.

(3) A minister will do well to recognize that there are "experts" such as social workers, doctors, lawyers and others, upon whom he may and usually must depend for further analysis and solution of his problem cases.

(4) A minister must recognize that basic in

any particular case, may be physical or mental disorders rather than "innherent depravity" as suggested by older theologians. To discover these may be his real business.

(5) As workers with problem cases, ministers must realize that standards of social morality are the resultant of changing concepts rather than religious fiat and must avoid a too critical attitude.

(6) It is necessary to view all kinds of individual problems objectively, to try to understand motivation and causation, and to see these problems in perspective.

(7) As far as possible the minister should understand technical methods of case inquiry, and procedure but in all his work he should be careful to appear as the minister and not as the social work technician.

(8) Especially is it often the minister's business to see that the "experts" orders are carried out or put in operation.

(9) All this leads to a suggestion that a minister ought to interest himself studiously in the technique of social case work, to watch for problem cases, to keep an eye open for opportunities and agencies which may be of help in his work.

(10) Legal recourse is a last stand of the social worker, and more particularly so, of the minister.

(11) It is important that the minister shall recognize that often it will be best to work through

others to secure his end, especially where he is not a welcome party.

(12) The minister must be able to talk on the level of his clients' understanding. The minister for himself must be able to draw sharp distinctions even though the client is able to absorb or understand only more simple and general concepts.

(13) The minister must help the client think through his own problems, but leave ultimate decisions, except in gross situations, to the client.

(14) The minister must recognize the importance of the time element in helping to reintegrate personalities.

(15) It is important in any case that all facts be known, that a problem be analyzed to its most vital aspects, and to the immediate problem. In other words, it is important to separate the problem into its various elements, many of which may need to be handled independently of the most vital problem. Sometimes, too, opportunism must be made the guiding principle where one would rather make ideals the basis, since the situation itself is often not susceptible of ideal treatment.

(16) The minister must learn to recognize symptomatic behavior, to help the church and community assume responsibility for its existence and removal and often take the lead both in treatment of personal problems and in organizing community facilities for meeting them.

(17) Sometimes work with problem cases will

necessitate the coordination of agencies presumably interested in the particular persons involved; there are usually a number of such agencies in the average rural community. (4).

How valuable an instrument of good will the minister be in many of these cases, because in most instances the case worker is not prepared readily to get insight into a family's religious life so that social data may thereby become available for treatment: (1) because the case worker ordinarily deals with people whose racial and religious antecedents are other than his own; (2) because he himself is reticent and hesitates to try to disclose religious inclinations or motives; and (3) because no technique of approach has been developed for use in revealing the sources of conduct which sprang from a client's past or present religious experience.

We may agree, I take it, that the purpose of including a family's religious background in a social record is broader than that of furnishing clues as to previous manner of living or providing additional forms of relief. May we not also agree that to perceive what influence religion has had on a family's life, and consciously to adapt our findings to treatment are processes essential to a full development of personality? Essential, I should assert by the way, to a reciprocal de-

(4) Clarke, Helen J., "Case Work for Clergymen", pp. 24, 25, 26.

(5) Glenn, Mary Wilcox, "The Background of a Family's Religious Life as Social Data".

velopment of client and case worker, to that mutual creative reaction which makes a mature social case worker thank God that he himself has been enabled to see more clearly what lies at the heart of life's mystery because he has had the privilege of taking dynamic part in helping people who are bearing trouble. (5).

The church, sad to relate, may be charged with indifference and has procrastinated when confronted with social problems. They were not sure of their status in this regard. The awakening came with the realization that there cannot be a divorce between our daily lives and the work of the church. The case work approach to individuals has been essentially the same as that expressed in the social creed of the churches, but the church itself has had little influence in recent years upon the family and child welfare fields. The trend now, however, is for the church to spring back to an acknowledged responsibility for making possible to the individual a fuller life. (6)

SOCIAL SERVICE AND THE ART OF HEALING.

Richard C. Cabot very strongly points out the need for the religio-psychic approach of the minister to cases suffering from mental or spiritual turmoil.

(6) "External and Internal Forces in Family and Child Welfare Work" By Committee on Family and Child Welfare Blue Ridge Institute, 1932, "The Family".

(a) Religious ecstasies, moral doubts, and self-condemnations are often manifestations of insanity, of hysteria, of neurasthenia, or of the stresses of adolescence with its torrential flood of developing energies. Suffering of this kind often leads people to seek help from a clergyman. But unless the clergyman is on his guard he will make a bad matter worse. The intense "conviction of sin", which such a sufferer often experiences, may be as morbid as the dreams of an opium eater, something that vanishes and ought to vanish with the return of health. The religious ecstasies and visions which the evangelist might welcome and encourage in his young pupil may yet possess no more spiritual significance than the blackcats and snakes at which the alcoholic snatches in his delirium. I am far from asserting that all religious visions are morbid. I am merely recalling the well known fact that some religious visions are morbid, that unless clergymen work in close touch with medical men and medical ideas they may do unnecessary harm by encouraging the wrong vision.

Physical complaints and even diseases may be due to mental and spiritual causes, to ignorance, mental disease and sin.

(a) The fear-neuroses, the habit-pains, the hysterical paralysis, spasms and anaesthesias are among the more common and obvious examples, often wrongly treated by drugs and physical means alone.

(b) Many people are sick because of

remorse, more or less stifled, because of animosities or slights brooded over, because of loss or disappointment to which they do not become reconciled.

(c) Ignorance of the laws of health, of the workings of the organs of nutrition and reproduction, of the influence of mind on body and of body on mind is certainly a prolific cause of disease. (7)

The minister as an arbitrator must be conscious of these fundamental truths and above everything else, he must realize, that when the home has been broken due to the above described causes or in any way becomes unstable, it must be dealt with as an individual problem....A family breakdown produces social consequences; social conditions outside the home are in large measure the forces that wreck the home. (8)

MODERN SCIENCES VS. TRADITIONAL THEOLOGY.

The psychological and social sciences, recent as is their appearance upon the field, have given us a totally different picture of original human nature from that contributed by traditional theology. Anthropology, ethnology, sociology, and psychology have combined in an empirical investigation and analysis of the factors which condition human behavior. And the knowledge which they have contributed has been of enormous value in many fields of human interest. Education for example, has wanted

(7) Cabot, Richard C., "Social Service and the Art of Healing," p. 101

(8) Groves, Ernest R., "Social Problems of the Family", pp. 175-176.

to know the nature of this human material which is being subjected to the educational process, in order that appropriate methods might be formulated. And it is upon the knowledge of human nature painstakingly gathered by the social sciences, not of upon a knowledge said to have been authoritatively revealed, that educational theory and practice are being developed. Social work, likewise, bases its procedures upon this newer knowledge of human nature. With the use of the tools which the social sciences have placed in their hands, social workers seek to understand precisely the nature of personal and social maladjustments in order that appropriate means of cure may be discovered. The pastor, also, in his ministry for the cure of souls, is learning to orient his work to the new knowledge. Even though he may not have succeeded in revamping his theology, actually he is ceasing to be greatly concerned about "total and universal depravity", and, by the aid of the newer insights, is seeking to understand the nature of those personality maladjustments and moral difficulties which he is called upon to adjust.

The view of human nature, then, which the social sciences are contributing, as over against the traditional theological formulation which has been presented, is briefly as follows: instead of original human nature being seen as "sinful", it is seen as neither "good" nor "bad". The new-born babe is simply a bundle of biological impulses entirely non-moral in themselves. Through untold ages an evolutionary process has been

preparing and shaping this tiny bundle of life. Inner organic drives, hungers, impulses, compel it to behave in characteristic ways; It sucks, grasps, aimlessly moves arms and legs. It behaves as it must, according to the inner law of being. But "good" or "bad" are not terms which can properly be applied either to its native behavior or to its original nature. This little biological bundle, in its original nature, is neither moral nor immoral, it is unmoral.

Whence then do these terms "good" and "bad" arise? They are social terms. They describe human behavior in social situations. And, fundamentally, they describe the forms of behavior approved or disapproved by the group. When the group approves, the group calls "good", what it disapproves, it calls "bad". Further, that which is defined as "good" or "bad" is strictly relative to the group, the time, and the place. For, as we have seen, conduct which at one time, or by one group has been regarded as "good", has been quite as definitely characterized as "bad" by another group at another time. The only absolute thing that can be said about morals is that they are relative. What needs to be emphasized here, however, is that "good" and "bad" are socially defined terms; they apply to social situations, and they are the product of social experience.

SOCIAL CASE WORK GIVE CUE FOR DEVELOPMENT
OF METHOD.

The direction, then, in which the social sciences

have turned attention, is away from the simple explanation of human failure in terms of original depravity, to the effort to find out precisely what the real causes of trouble are in any given case of need. Where, in the process of adjustment between the individual and his environment, have things got out of joint? We know something about the process in which personality is achieved. We know many of the factors that shape and mold it, we know something about the inner drives of the individual that need to find fulfillment. We can see the possibilities of maladjustment and disorganization. With patient study of each particular case, we may be able to discover the exact nature and cause of the trouble, even of moral failure or guilt, in the individual himself or in his environment. By removing the cause, or by stimulating the individual, we may be able to effect a cure. It is thus that the social case worker proceeds in his efforts to help economically and socially maladjusted people out of trouble. Perhaps in the matter of method, he has given the pastor an invaluable cue for the development of a technique in his ministry for the cure of souls. (9)

SOCIAL CAUSATION.

The question of social causation is so crucial for the social worker that it should determine

(9) Holman, Charles T., "The Cure of Souls", pp. 79-84.

his whole approach. From this point of view there are four aspects at least presented, by every situation. Ranging from the broadest to the more localized they are as follows:

First, there are the basic social and economic factors which cannot be left out of the picture of the situation, because in some way and in some degree they always obtrude into it. If for example, there is an economic problem it may be generated or at least accentuated by the sweep of economic forces in respect of which the individual is often powerless. A depression or a strike, inadequate wage rates or unhealthy working conditions create troubles and maladjustments within the family. The competitive stress of our society and the competitive modes of living which are their concomitants bring tensions within the small group. Again, the antipathies of racial, national or class elements within the community have repercussions on the lives of individuals and of families. It is harder for the members of one group than of another to obtain jobs or get promotion or social estimation; this is apt to reflect itself in the crisis of individual situations. Sometimes, too, political and religious differences complicate the problem of the social worker. It is important that he should recognize these broad fundamental conditions, since they cannot be remedied within the concrete case. All that the social worker can do within, in his own special field, is to

mitigate or alleviate their effects. The causes lie beyond and must be attacked in the arena to which they belong.

Second, there is the background of the particular group represented by this individual case. Every group develops its own attitudes, its own customs, its own way of doing and thinking. The suggestions, the appeals, which can be brought to bear upon them in their needs must take into account their particular moves. Methods which would be effective with one group will merely alienate another. Particularly when dealing with immigrant groups is it necessary to understand their state of mind. It is important to interpret standards of living and the modes of living. Group standards of living are obvious, group modes of living are somewhat harder to discover, and still more hidden are the attitudes that determine the modes of living. We must get beyond the invisible environment of the immigrants. (a) For this present objective the social worker must regard this invisible environment as the predetermined condition to which his work must be adapted. In the immediate situation with which he deals the mores of the group must be accepted, for these mores may be inflexible. They change, of course through a slow process. The social worker does only mischief if he seeks to interfere with these slow moving

(a) Hurlibutt, Mary, "The Invisible Environment of the Immigrant, The Family.", October, 1932.

changes.

Third, there is the play of personalities within the special group, the family or household or institutional group where the problem of maladjustment occurs. Whether the problem centers in a single individual or embraces a group itself, there is nearly always involved, unless we are dealing with homeless men, a series of social contacts. To understand the needs of the situation these contacts must be fathomed. We should not think of a man's relationship to his associates as if they were something apart from the man himself. They are the intimate conditions of his life. It is in these relationships that he finds himself alike the group mores. These personal relationships are very sensitive to immediate changes in the social environment. For members of any group they must be continuously restated due to these incessant changes and many maladjustments. They occur because in a time of weakness or mischance, the individual has not the strength to maintain this moving equilibrium on which the assurance of one's personality depends. The problem is revealed nowhere so sharply as in family life. The attitudes of its members to one another must be forever readjusted to the changing conditions within and without. Husband and wife must change with the changing days and years. If one changes and the other remains stationary, differences and discord ensue. New needs are not met and old expectations are not fulfilled. Even more serious is the readjustment involved in the relation of parents and children,

as children insist on growing up in ways so disturbing to the acquired attitudes of the parents. The family then is a moving system of relationships, a delicately and constantly changing balance. And so is every circle to which the human being belongs. Consequently the chances that things will get out of joint are numerous, and often enough the disturbance means an unbalancing of one or more of the personalities involved, sufficiently acute to call for the services of the social worker. Even where the condition precipitating the maladjustment arises outside of the interplay of personalities, it is bound to affect their relationships to one another, and sometimes adversely. The social worker needs more skill and insight in the endeavor to comprehend the frequent disequilibrium of these social relationships and to bring to bear such influences as will aid in the restoration of an equilibrium. It does not follow that the approach to an equilibrium is always a direct one. Sometimes an environmental change, a suitable gesture, a little training in housekeeping or cooking, may be the best avenue to the inner situation. The interplay of personalities has also its physical background and this too cannot be neglected.

Fourth, these are the immediate precipitants of the crisis or acute maladjustment. In a broad scientific reference, there is of course, no one cause of any occurrence, there is a multitude of factors all of which conspire to bring the occurrence into being.

But in a social situation we can for practical purposes single out one or more factors as precipitants. It is only insofar as this is possible that control is possible. For by precipitants, we mean factors normally extraneous to the situation, factors which erupt within or break into it from without, and therefore factors to which for the purpose of control or of correction special attention may be devoted. Sometimes the precipitant of trouble comes from without the group situation, as when an economic depression or industrial accident destroys the livelihood of the family. Sometimes it arises within the immediate situation, as when a quarrel or clash of temperaments creates a crisis or when there is a breakdown of mental or physical health. These factors are relatively insoluble, in that we can distinguish the part they play in creating specific troubles, but they are often simply the result of a long process. They deserve special attention, but it is rare that they can be independently treated. The texture of social life is too closely knit to allow the complete separation of elements within it. It is necessary for the social worker to perform the equivalent of a surgical operation, taking the maladjusted individual wholly out of his previous social environment, either because he needs treatment which demands a special institutional setting or because the situation is such, as sometimes, in the case of neglected children. But we should realize that after all, these expedients are as drastic

as surgical operations and should be undertaken with at least as great a sense of necessity for they detach the individual from the living context of his society. (10)

SOCIAL WORK VS. CHARITY.

There was a time when social work would be looked upon in the same light as charity. Alice S. Cheyney, says however, that the historical perspective which shows social work to have developed out of charity shows also that there is a close relation between that development and contemporaneous developments in other lines. We know that in every field of production, trade and business, enterprising men have lately developed practical sciences to replace the old rules of thumb, and that even in such a field as teaching there has lately appeared a derived science of pedagogy which levies on psychology and other direct sciences for its materials. The stewards of charity, like other people saw the light of science full on their path. We have been told that the grosser disabilities which charity relieved could be done away with for good if we would systematically search out and treat their causes. "Poverty, vice and crime are no more impossible to stamp out from human society than smallpox and measles. The most formidable obstacle to the adoption of the policy of prevention and treatment is not resistance to the necessary public expenditure, still less inability to

(10) Maciver, Robert M., "The Contribution of Sociology to Social Work", pp. 93-97.

raise the money, but the lack of administrative science and the shortcomings of our administrative machinery. Merely to relieve destitution has been nearly as easy as to do nothing. But successfully to intervene in order to prevent - whether to prevent the multiplication of the mentally unfit, or to prevent unemployment - involves the discovery of causes, the formation of large schemes of policy, the purposeful planning of collective action in modifying the environment of the poorer classes, together with scientifically diversified treatment of those individuals who fall below the recognized standards of civilized life. (11)

IS SOCIAL WORK SCIENTIFIC?

Nevertheless it is true that some of our social scientists, courageous as you might expect them to be, are a little afraid of us, and a timid few insist that we cannot be scientific because we are trying to find a remedy for the evils with which society has to deal. But if it is unscientific to do this, to follow diagnosis by curative treatment, then we should be quite willing to be called by some other name. We ought not however fail to remind our friends that if finding a remedy is unscientific, then the great physicians must also be excluded from the scientific ranks.

Again some of these social science friends are

(11) Cheyney, Alice S., "The Nature and Scope of Social Work", pp. 16-17.

afraid that we cannot be scientific because we really care about what we are doing and we are even charged with being sentimental. Now this does not frighten us either, for we know that a great physician also cares about the human beings he is taking care of - he may in fact be full of kindness and sympathy, and for that reason be a doctor - so the social worker may care very genuinely about what happens to the unfortunate child or broken family for whom he is temporarily responsible without being less scientific. I do not mind what we are called, so long as our work is sound and honest and useful to the commonwealth; and so long as our students have respect for the poor and believe in the dignity of human life even when it is very humble.

Edith Abbott, continuing this discussion calls attention to the fact that Mr. Abraham Flexner, in his interesting book on Medical Education, points out that it is a mistake to think that "the humanity which should characterize the physician in the presence of suffering" is in conflict with scientific method and procedure. "humanity and science", says Mr. Flexner are not contradictory". In the long run he thinks "precisely the opposite is the case". For men are as apt to devote themselves to medical research and medical practice, because their hearts are torn, as because their curiosity has been piqued; and teachers, however intent on training students, in the

logic of practice, need not forget to inculcate both by precept and example, the importance of tact and fine feeling. The art of noble behavior is thus not inconsistent with the practice of scientific method. In any event, though men and nations vary in human sympathy and in the forms in which sympathy finds expression, the variations stand in no necessary relation to either individual or national intelligence.....It is equally important and equally possible for physicians of all types to be humane and at the same time to employ the severest intellectual effort that they are severely capable of putting forth. (12)

THE ARBITRATOR AND THE CHANGING FAMILY.

The arbitrator of this court must have a fine understanding of the modern ideology of the family institution in dealing with this type of specialized work. Let us suppose for example, that the social worker is engaged in the field of family case work. It is of no significance for the task that he should realize the changes which urban life and its concomitants are creating in the family, that he should see the family in the light of the forces which break up its old solidarity, of the insecurities and detachments which an industrial civilization has

(12) Abbot, Edith, "Social Welfare and Professional Education", pp. 71-73.

brought with it? Is it of no significance that he should understand the cause of the declining birthrate and the slower impact of these forces on the families of the very poor? Is it of no significance that he should appreciate the different family mores of different national groups, as they come into conflict in the process of accommodation to a new environment? Against the background of this knowledge, which sociology can in some measure provide, he can see the meaning of things in a new way. Facing a world full of maladjustments and conflicts, he can understand causation much better. They are no less serious because so understood, but being understood, even the mishaps and tragedies of this world cease to be the chance phenomena of the blind process of life. They too become part of a nexus of cause and effect, in the apprehension of which the social worker begins not only to define his own function, and responsibility, but also to see his relation to those larger controlling agencies which are at work within the social and economic system.

Here again the distinction between a science and an art enables us to discern the contribution which sociology already makes in part and as it advances will make more fully to the field of the social worker. In all practical work we are interested in certain aspects of a situation, these being determined by our desire to control it. In social work, we are generally interested in a localized situation, individual, "cases", individual families, specific community problems. But these situations represent the impact of forces not generated within. They are of the social worker's interest. Each situation

is a focus in which heredity and environment have long been operative, in which political and economic factors working on a far broader scale precipitate personal disturbances, in which changing civilization incarnates one of its myriad maladjustments. In short, we must transcend, both in space and in time, the limits of the case, if we are to grapple effectively with its problems. Sociology seeks to comprehend the broad sweep of those tidal forces, as it seeks also to comprehend the interplay between them. The latter endeavor, which is in this country at least the more advanced of the two, may be illustrated by the community studies of recent years, studies of rural communities, such as those of Brunner and Kolb and Zimmerman and Galpin, and studies of urban communities, such as the illuminating series of investigations which have the city of Chicago as their center. If social therapeutics is broadly the function of the social worker, it must be achieved on the basis of social diagnosis. Diagnosis is the scientific prologue of practice; it is the place where art and science join hands. Social diagnosis is a task demanding high qualifications, calling for the resources of knowledge and method which can be placed at the disposal of the social worker. Unless he learns that every situation with which he deals is an eddy where economic and political and educational and other civilized forces, complicated often by racial and religious issues, meet and swirl within the lives of particular human beings, he is unqualified for his task. (13)

(13) Mciver, Robert M., "the Contribution of Sociology to Social Work", pp. 13-15.

PREREQUISITES OF AN ARBITRATOR.

This should, however, be looked upon as a broad field including the principles and methods of dealing with families of many kinds and with individuals who no longer are members of family groups and with children of many sorts, alone or as members of family groups, and with individuals who need specialized treatment, such as the physically or mentally sick, and finally the delinquent members of the community whether they are members of families or alone. This field, of course, requires an understanding of social psychiatry and the behavior disorders of children; it requires a good understanding of the social aspects of medicine; it requires an understanding of immigration and immigrants, and the laws which now control human migration to this country; and it should include a competent understanding of the proper treatment of offenders against the law - let us say, principles of penology and criminal justice. As a matter of fact, we have in this field of social treatment, the whole science of human relations and not merely courses dealing with the processes usually followed in "family welfare" or "child welfare" or "medical social welfare" or "psychiatric social work". The fact that the field has heretofore suffered from major operations and amputations and unnecessary isolations is no reason why we should not look at it with a broad professional and scientific understanding of its future possibilities of development. (14)

(14) Abbot, Edith, "Social Welfare and Professional Education" pp. 49-50.

SOCIAL RESEARCH.

Disinterested examination of contemporary social facts is rare. Only in recent years has the study of social conditions begun to be scientific instead of sentimental. The very complexity of causation which lies back of social problems, has often discouraged painstaking analysis and defied systematic investigation. Prejudice and superstition still hamper and frequently prevent an impartial examination of things as they are. Although as Keller says, "A man can count the legs of a fly and report his findings without having his heart wrung because there are too many or too few", when it comes to social facts, disinterested study is difficult because of the strong emotional coloring of everything that is established and traditional controversies about social problems usually give rise to more heat than light. (15)

THE ROLE OF THE CASE WORKER.

Case workers will agree that we have under consideration a subject which is not easy to discuss. Two or three years ago, no one of us would have hesitated to make statements concerning the role of the case worker in treatment. Today, the subject seems both complex and confusing. Familiar ideas seem to have acquired new names, new ideas are in the air. We question our goals and

(15) Chapin, F. Stuart, "Field Work and Social Research",
p. 3.

methods, our procedure, and the worker is on shifting ground who attempts publicly to discuss his contributions to his daily task.

Attitudes of thinking, questioning, doubting, indicate progress although temporarily our work and discussion may suggest confusion. But the maintenance of equilibrium, in a world where at times the case worker's failing of assurance seems to be in inverse ratio to the demands made upon him, requires a nice balance. On the one hand we accept uncertainty, recognizing that the treatment truly is in that "fluid" state of which we so frequently hear; on the other hand we grasp firmly the certainties which experience has shown to be sound. Are we clear as to our field or does social case work need redefinition? Does it not still deal with the individual who is unable without the aid or emotional release to meet his life experiences in a manner acceptable to himself or society? Certainly the case worker sees one to whom, seemingly the demands of living are too complex for his equipment. His gears are not meshing with the social machinery; he is unable to make a "go" of life. He turns to the worker with his problem - how does he see himself in relation to it? What is his attitude toward his client? What does he do, what can he do in this situation created by the applicant's appeal for assistance? We are increasingly aware of the limitations of the case work situation. It is bounded on the one hand by the equipment and capacity of worker and client. It is shaped by the

habit patterns of others and the difficulty of offering to them experiences which will arouse a new response. It is circumscribed by inadequate resources and immobility of environment. And above all, it is limited by what we see in a situation, by what the client wants for himself, and by community demands or expectations.

This awareness of limitations - far from stultifying - has a positive value. We take our own measure, concede our fallibility, and then tend to concentrate on the possibilities, that lie within the situation. We perceive with increasing clarity the potentialities of the other person, the unharnessed energy which we have not always been aware and we are alert for the moment when our withdrawal from the situation may be inevitable or desirable.

For what is the client really asking? What can he do to solve his problem? Can he use us? What have we to offer? When shall we have ceased to be of service?

In the case work situation the worker has three major resources: he can make available to his client services, material things, and a relationship. The use of services and gifts is determined by the needs of the case and case work objectives, but the worker-client relationship is implicit in every situation. It varies, whether slight or meaningful for the client, it is significant for the case situation. It has a bearing on the effort which the client will put forth on his own behalf

and the value which he will place on contributions of time, of effort, of relief. From contact with the worker, he may derive the emotional release, the confidence in himself which he needs for the accomplishment of his purpose.

For in case work we perceive a relationship that is different from the affection, the solicitude of the family, or the comradeship of friends. The case worker has the will to understand and to accept the client without feelings of anxiety, rancor, prejudice or **disapproval**. If his need requires it, he may say aloud the things which he has not had an opportunity to express. In the worker, he should be able to find the one who will neither feel nor voice irritation when he slips from the level of adult behavior.

The case worker sees the client not as someone to be made over, one whom he will persuade to "change attitudes". The worker conceives the impossibility of accomplishing these objectives and the destructiveness of attempting them. He respects the personality of the individual, and the human being with possibilities for growth. He recognizes that he cannot change the attitude of another, that people themselves change when they have the feeling that another type of behavior or activity will be more satisfying. What he may become he does not know, but he gives him the spur of awareness that in his relationship to him, he, the client, is a free man.

For the problem is the client's, whether he leaves

it with him or shares the responsibility for it. The worker endeavors to give to the individual the satisfaction of carrying his own burden and feeling that he has been instrumental in working out a solution of his difficulties. From the first contact to the last, the worker is maintaining an awareness that this problem is another's. If by virtue of agency function, he has the right to exercise authority, then least of all is he justified in unthinkingly taking from the client the direction of his affairs. For there is no experience which gives to the individual a sense of accomplishment comparable to that derived from a realization that he has overcome an obstacle or weathered a crisis. By making decisions he learns to make them. Hence to ignore the opportunity to leave with him as much of his burden as he is capable of assuming, or willing to shoulder, is to fail to acquit himself of one of the major responsibilities of case work, the responsibility for helping the client become to some degree a self-maintaining person.

The delicacy and complexity of the process by which this goal is achieved, become daily more apparent. Treatment we see as a continuous process, beginning in the manner which application is received and ending with the last contact. It includes things said, or more important, left unsaid, the questions that the worker doesn't ask, assurances given or unspoken. Everything that transpires to establish the relationship between worker and client ever more than serves to clarify or define the problem

is treatment. So also are those things voiced or unspoken which affect the client's feeling of responsibility for the solution of his difficulties; which build up confidence in his ability to proceed.

We have ceased to departmentalize our activities; we are constantly and simultaneously securing information, appraising and revaluating, developing a relationship shifting emphasis meeting material needs and we are taking literally the familiar statement, "treatment begins with first contact", because we realize the significance of this first meeting between the participants in the case work situation. In the "give and take" of this coming together the quality of a relationship will be determined, a problem may be clarified, initiative may be perceived and fostered, responsibility accepted by either or shared. Most important, there may be engendered a feeling of self-esteem comparable to electricity in a battery run-down, a feeling of self appreciation which will enable the client to accept and work through his difficulties.

Is there a better method of arousing self esteem than by respectful consideration of the problem of another? The manner in which an application is received carries conviction to the client as to his standing with the worker. To listen, to assume that the ideas of the applicant about his own situation are of primary importance, to accept the client's statement without cross questioning is to treat such an applicant's problem wisely. For by this method, the

worker conveys the impression that the one who appeals to him for help is a person whose opinion he values and whose reticence he respects.

Listening as a case work technique is increasingly appreciated and consciously utilized. It is one means by which we gain understanding of the situation into which we are being drawn. There have always been workers who have recognized the value of "letting the client unburden himself" before pressing for seemingly irrelevant information. And there has been a growing tendency to meet the emergency situation without a play of exaggerated interest in the grandparental birthplace and cause of death. Today we consciously recognize the sterility of information pried from an informant. We have learned that the case situation frequently is blurred or obscured by the worker's show of interest in all phases of the applicant's life and past experience. We see with growing clarity the destructive effect on relationship of a premature or undirected delving for background.

Comparison of many early interviews with later information given spontaneously will show how misleading or non-informative are the earlier data. We can by direct questioning induce a recital of the events of a lifetime but the feeling of the individual about these experiences cannot be elicited at the will of the worker. The really intimate and enlightening revelations are given when the client feels a need to reveal himself, when he perceives the solution of his difficulty hinges

on a mutual understanding of past events, or they are offered spontaneously when he knows and trusts the worker.

If we let the client tell us what he thinks and wants, we may discover that he doesn't need us. If we give him an opportunity to reveal himself we may find the problem illuminated and clarified as it could not be done by the most determined effort to "get history". On the other hand when an applicant has given many references, answered numerous questions, or at our request, discussed the events of his life, he may feel that we have automatically accepted his problem. And that he is therefore entitled to the type of assistance for which he is applying. How often we have heard it said, "I have answered your questions, you have investigated, now what are you going to do?"

A listening attitude and inactivity on the part of the worker frequently puts the burden of proof on the client. The client feels the need to explain in order to make his position clear instead of leaving it to the worker to find out what he can do about him.

We are beginning to appreciate the value of silence. We realize that fear of a pause in conversation, sometimes causes us to indulge in meaningless talk, reassurances, effort to allay anxiety. The worker who is sufficiently sure of himself, to wait, to listen and accept the tempo of the other person, is usually rewarded by a contribution from the client which may be truly clarifying. (16)

(16) Neustaedter, Eleanor, "The Role of the Case Worker in Treatment", pp. 151-153.

TECHNIQUE.

There is, theoretically at least, a logical and orderly progression in the way in which a case worker gains his knowledge of his client's personality and difficulties, from that building up a basis for understanding and cooperation from which to attack the problem of restoring or developing his client's self-respect, using that in turn to make him a partner in his own case treatment, so that in the end, by the efforts of both, the client is able to achieve his "social integration". When we push back, however, to the process, those "actions incident to the accomplishment" of that treatment, which Porter Lee, defines as the leadership type, by which a passive subject of case work becomes an active agent, our ground is more uncertain. One is almost tempted to believe that case workers have agreed with Michael Arlen that there are no words for the action of man upon man. But must each case worker build up his own technique of treatment at the expense of his clients, helped only incidentally by examples of what has been done with no explanation of how it was accomplished; or is it only that we have not taken the time to articulate our skill? (17)

SYNTHESIS OF REASON AND EMOTION.

The social worker of the future and the more successful one of today - will, we think, be one who has

(17) Brisley, Mary S., "An Attempt to Articulate Process."

satisfactorily worked out in his job a synthesis of reason and emotion. He will no longer steer clear of the very word emotion. He will accept it gladly in its fullest implications, recognizing to its utmost limits the power of emotion in human lives. In a very humble spirit, he will take up the burden that the conscious use of emotion in the worker and client relationship undoubtedly involves. That this prediction is no idle fancy, can be demonstrated by no more than two quotations from social work literature. Dr. Soutard, some years ago wrote: "The social worker must contrive to be at the same time a personal friend and an impersonal adviser". Dr. Jessie Taft, writing in "The Family" seven years ago, said, "the basis of all case work therapy is primarily emotional, not rational or intellectual".

At this point, it is perhaps necessary to make a sharp distinction between emotion and its dread counterfeit emotionalism. We certainly do not want emotionalism to become dominant in our social work. To a finely equipped and well trained social worker, with a deep sense of vocation, no spectacle is more horrible than that caricature of his best qualities that masquerades under the name of social worker and uses his clients simply as a means of satisfying his own emotional desires and cravings. There is a certain type of man in "boys' work" who frequently achieves a superficial and quite temporary success and who is often, we know, himself in deep need of a psychiatrist's guidance. The social worker who seeks

his emotional satisfactions through his clients, is the one who causes such statements as that made recently by a well known local clergyman from his pulpit: "the modern social worker is simply a tiresome meddler."

In urging the recognition of the value of emotion in case work, we are only thinking, of course, of that creative emotion which has brought all the arts to their highest fulfillment. It is well to remember that there is something of austerity in all creative emotion, and the best of social workers will be no less ardent for being somewhat austere. The control of emotion, not the absence of it, will make our work strong and enduring. "Other things being equal, the higher and more complete the capacity for emotion". (b)

In the control of emotion, we may look for much help from mental hygiene. A generation of social workers growing up in the period of the mental hygiene movement's full development will have been trained from earliest youth to good habits of emotional control. To them it may well come to be unthinkable to develop poor habits in this regard as it is to the present generation to have poor habits in respect of bodily hygiene. A temper tantrum may come to be regarded as no less foolish than a wrong dietary habit, and an emotion outburst as inexcusable

(b) Kidd, Benjamin, "Science of Power", Putnam 1918.

(who knows) as halitosis. The formation of good emotional habits is perhaps more necessary for the social worker than for any other kind of professional worker. (18)

PSYCHIATRIC SOCIAL WORK.

Psychiatric social work is one of the most recent developments in the specialized **fields** of social case work. Individuals one dealt with in this **field** who because of inability to make adequate mental or emotional **adjustments**, are in need of medical study and treatment by a psychiatrist. These individuals may suffer with mental disease or mental deficiency or they may come in the large class of border-line and personality problem cases. The psychiatrist social worker carries on intensive case work with cases of these types and supplements the psychiatrist's examinations and treatment by securing social histories of the patient's behavior, and by aiding the patients in making their social adjustments. He always works from within the psychiatrist's clinic or hospital, with that as his approach to his patients and their environment. His first consideration is the psychiatrist's diagnosis and the patient's behavior.

Of course, social case workers in every field have to deal with individuals of these types and the knowledge which they gain from their experience with these abnormal cases, should assist them in dealing with

(18) Taylor, Lyra, "Emotion and Social Case Work".

the attitudes and behavior of more normal individuals. It is this consideration of mental conditions and behavior and of personality in all social case work which can be called its "mental hygiene element". Social psychiatry and psychiatric social work have brought about a clearer understanding of and a greater emphasis upon this element in all case work.

However, without the actual clinical experience with psychiatric social workers get in their work, it is difficult for case workers in other fields to gain a practical working knowledge of personality problems, or, as Miss Jarret calls it, "psychiatric point of view... the habitual recognition of mental causes of conduct, together with some knowledge of the nature of the mental processes that may cause conduct disorder". (19)

DEALING WITH THE CONFLICT OF OLD AND NEW GENERATIONS.

In the home, this conflict between old and new is an especially difficult problem. Relations within the family group are the first of which a child becomes conscious; they become vitally a part of what the individual feels in his very self. Many an immigrant would wish to close the door of changes in traditional relationships within the home. Yet there the bitterest

(19) Myrick, Helen L., "The Mental Hygiene Element in Social Case Work", p. 245.

struggle of all may take place. Of course many immigrants, perhaps most of them, meet the problems which the self-assertive second generation brings, and work them out with their children without too much heartache on either side. But the foreign families who come to a case work society almost always have as one of their difficulties, and often as their chief problem, a lack of understanding and harmony in the home.

In such situations the case worker has the problem first of understanding the old ways; he must learn to see in them an attempt to express an ideal. He must be able to point out old virtues under new guises. He must be patient, and realize that a radical change in point of view takes time. All the tact and insight and imagination the case worker possesses will be called upon in interpreting the parents and children to each other, and American ideals to both.

Establishing harmonious and mutually helpful relations within the family group is a necessary stepping stone to complete adjustment in all group relations. In the refashioning of the home pattern, the immigrant probably feels more emotional strain; but in the adjustment to new groups, industrial, social and civic, he finds himself quite as much bewildered. Community contacts are more difficult to guide wisely for the foreign-born than for the native-born, both because the immigrant's environment is so complex, and because his relation is unstable and contradictory.

The situation is complicated by relationships both with his own national group, which has its own folkways, and with the community at large, which has quite other norms. While the immigrant's experience with American institutions tends to give him a new point of view, if he has known the most sordid aspects of life in America, he cannot be expected to conclude that our institutions are to be respected. No immigrant can have vital relationships with the community unless he understands its customs in the light of the ideals which they strive to express.

If real understanding of America comes, it means dropping some of the traditional way of thinking and doing. Certain old world ideas and customs can be kept intact, some can be modified; others have to be discarded. Belief in witchcraft, for instance, has to go. An immigrant who rejects proper medical care because he believes his bodily ills are due to a curse, cannot act intelligently until he is freed from that hampering **superstition**. Yet it is asking a good deal to expect him in a few hours to transfer his allegiance from the black arts to scientific medicine - a journey which has kept us on the road for centuries with the goal yet not attained. Basic changes cannot be over-night. One problem for the case worker is to help foreign-born families to make changes with understanding, and slowly enough so that the immigrant may accept the new way as his own child, and not as an unwelcome challenging.

But the immigrant is not the only one who ought

to change his ways. America ought to change her ways. It is not much to say that a case worker has as much responsibility toward the education of the American public as of immigrant families. He sees every day how defects in our organization, social, economic and political, make difficult and sometimes impossible the development of good American citizens from good immigrant stock. The day-by-day case work problems which foreign-born clients bring before a family society call attention in compelling fashion to phases of national problems of which the average native-born citizen is quite unaware. They show also how closely our fortunes as a nation are linked with those of other lands. To understand and help to meet these problems, a family society needs a world-wide horizon and international understanding and sympathies. (20)

To assume that the problems of all immigrant families are alike is obviously absurd. Yet in spite of the different attitudes and customs which different nationalities bring with them, and in spite of the differences in the ways in which they react to American conditions, there are certain experiences and problems which they all have in common. All have suffered the pang of breaking the ties which bound them to the past, of parting, perhaps forever, with much that was dear, Whatever the reasons for their emigration, whether economic

(20) Hull, Ida M., "The Immigrant as a Factor in Social Work", pp. 172-173

pressure, actual political or religious oppression, the severing of the old bonds has been a painful experience, alleviated though it may have been by high hopes for the future. In the early days in America, all immigrants have another experience in common. They suffer from a sense of being adrift, from longing for the old home, from disillusionment as to what the new world offers, from difficulties in adjusting themselves in act and especially in thought, to actual conditions of living here.

The first problem of which the family agency becomes aware is likely to be the difficulty of getting any adequate picture of the immigrant as an individual and a member of a family. To advise him wisely, it is essential to know about his heredity, his past successes, and failures, the bent he has shown, his weaknesses. The immigrant's personal and family history is not really inaccessible, so shut off from reach by the Atlantic, as many too hastily assume. In his national group, are probably to be found fellow countrymen who do know much about the family. Few case workers, unfortunately, have such an acquaintance with any immigrant group as to make it possible for them to use these sources of information and help. They too often regard the immigrant family as isolated both in time and space - as just here and now, rather than as the product of heredity and environmental influences. As a result the family agency often advises its foreign-born clients on a quite insufficient basis of knowledge; and the immigrant family suffers accordingly

from the lack of vision and courage and initiative on the part of the family society. Let us acknowledge quite frankly that, in many case work problems, the ignorance of the immigrant would not be so serious were it not for equal and much less pardonable ignorance on the part of the native-born case worker.

Another problem comes up as soon as the case worker tries to picture the social connections of an immigrant family. No family can be understood as a unit. It must be seen against its racial and national background. With native-born Americans, this is a fairly simple problem. We know something about the social training of negroes from the cotton belt, of families from small New Hampshire villages or from a western prairie town. To picture an immigrant in his social setting is more difficult for we have no such definite knowledge of his former environment. Yet an understanding of the group to which a family belongs - its traditions, its talents, its successes and its failures - is essential for the evaluation of any individual of the group.

To understand the social setting, it is necessary to keep in mind more than the old world experience of the immigrant. Quite as important is an understanding of what happens to him during his first years in America. Very few who have been here less than five years ask for assistance, and the greatest number of applicants have been here from five to ten years or more. Before the immigrant ever comes to a family society he has,

therefore lived for several years in America.

As a newcomer, the immigrant turns for help first of all to those from his own land who have been here longer than he. However satisfactory in theory such guidance may be, in practice its disadvantages soon become clear. Through bitter experience, the immigrant often learns that the help he gets from his neighbors is far from solving his problem satisfactorily. His advisers may be as ignorant as he; or they may be interested chiefly in profiting from his misfortune. In any case the immigrant is disillusioned as to the ability or willingness of his fellow-countrymen to help him out of some of his difficulties.

The actual inadequacy of relationships within his own group is not the only reason for the immigrant's growing dissatisfaction with what it offers. The contacts which he has had with America play their part in his desire to try new ways out of trouble. Into the everyday life of the most self-sufficient foreign colony, new influences from without are penetrating little by little. Conditions of employment are new and compel readjustment. Conditions of living bring unaccustomed experience as to new household methods, to strangers, in adjoining rooms, to landlords and inspectors of various kinds, who impose new requirements. Most of all, the American school carries to the home through the children ideas of new, astonishing and even revolutionary character.

Such in general is the history of an immigrant

of five years standing. (21)

SCIENTIFIC SPIRIT.

IT seems that we have all become more conscious, first, of the client as a person, determining the case work process to a degree not before realized or permitted. To "accept" a client, has come to mean more than taking the responsibility for his problem, as we may have used the term in the past. We wonder now whether if we were the client, we should want to be "accepted" on those terms. We think now of this acceptance of us to any really helpful case work relationship as implying an equal right to reject our help or to use it in any way he can best do so. We accept him when we are able to understand him as he is, and to respect his integrity as a fellow human being.

In the second place, we have perhaps halted in a tendency to become too dependent on history. Clearly we have too often been led to the past when we are able to understand of both past and present. We have lost priceless clues for understanding of both past and present which we might have had if we had stopped our probing with questions, long enough to see the significance of a client's bringing up, what he does, when he does so, and in relation to his coming for help. If we are told by someone else of a dominating mother in the client's

(21) Hull, Ida L., "The Immigrant as a Factor in Social Work", pp. 171-172.

past, we cannot, from that circumstance, get any clue as to whether he will seek or retreat from help which he may construe as dominance. Only as we watch his successive advances and retreats from the worker-client relationship, only as associations in his mind led him to talk about his mother, in connection with incidents in his contact with the agency, can we learn what coming to the agency means to him and how he is likely to need to use it. We see more clearly in a year's time, the fascinating possibilities in study of "sample situations", to which the client is reacting in the present and around which cluster his memories of the past which are most influencing him. We need as never before, all we can acquire of keener observation, or gain of what psychiatry has learned of the workings of personality. Above all, we require of ourselves more of the discipline of a scientific spirit which will note and allow for the sources of error in our own reactions to the same "sample situations" in which we are involved with the clients. We shall not boast loudly of our objectivity when we recognize that error is inevitable but subject to some correction if we understand it. (22)

CASE WORK.

Social case workers use the term "case work" to

(22) Reynolds, Bertha, "A Changing Psychology in Social Case Work", p. 107.

embrace more than the investigative procedure of studying individuals; they mean by case work a process which includes besides investigation, diagnosis of social situation and treatment. In this chapter, the term "case work" is used in the restricted sense first mentioned, that is, we shall describe the principles of the investigative procedure of the case work. Again, we are not limiting our description to investigation "in social case work", but enlarging it to include the special variation in the field work technique of clinical criminology.

THE UNDERLYING LOGIC OF PROCEDURE.

Let us first examine the underlying logic of procedure used by the social worker in his investigation of a client. Intelligent treatment of human beings in misfortune rests on a social diagnosis which takes account of the needs, resources and possibilities of each case. The plan of treatment depends upon the collection of evidence and the drawing of inferences therefrom. The social worker gathers this evidence from the client, from his family, and from the sources of insight outside of the family group. By comparing evidence collected from these sources, it becomes possible to draw inferences and intelligently to plan treatment. But it is testimonial evidence that the social worker gathers from his field investigation. The evidence that is significant for diagnosis and social treatment is social

evidence, - of the succession of petty acts, trifling remarks, or innumerable decisions, which in themselves and viewed independently appear to be insignificant, but which have important cumulative effect. Thus social evidence, although it does not consist of conspicuous acts, is nevertheless, indicative of a trend of behavior. It is made up as Miss Richmond says, of "all the facts as to personal or family history, which taken together, indicate the nature of a given client's social difficulties and the means to their solution". (d)

In the facts composing these "stream pictures" we find social evidence for diagnosis and treatment.

In considering social evidence, it is important to distinguish the different types of evidence gathered. In the process of investigation the social case worker gathers evidence from witnesses rather than from trained observers. It is thus difficult to get facts which are ample as well as pertinent. When a thing can be affirmed with certainty we conclude that it is a fact. Things which have external reality are not more facts than the existence of ideas and images in the conscious or unconscious mind. Consequently although a fact is so often thought of as a tangible thing, its definiteness consists not only in its objectivity but also in its certainty, and in some cases in its verifiability. Evidence, or the ultimate fact or facts, offered as a basis for interference (reasoning from one fact to another) is naturally of different kinds. For our purposes, the

(d) Richmond, Mary E., "Social Diagnosis", 1917, p. 50

distinction between the real testimonial and circumstantial evidence are sufficient. Real evidence consists of facts had by first hand inspection. The visitor finds in the appearance of a client's home real evidence as to the conditions under which he lives. But the report of these observations to a supervisor becomes to the latter, testimonial evidence. This form of evidence consists then in the assertion of human beings.

It may be further analyzed into an assertion, not of direct observation by the visitor, but of what others told him - this is hearsay evidence. It is the weakest form of testimonial evidence and should be used with caution. Passing on now from client assertions by human beings, which if true, would establish the point at issue, we come to indirect or circumstantial evidence, a catch-all which includes everything that is not the direct assertion of a human being. Circumstantial evidence, although usually rated as of lower value in independent cases, gains cumulative effect by adding item to item and has the advantage of not depending for its weight upon the elusive personal trustworthiness of a witness. (23).

METHOD AND APPROACH.

As often happens the best description of method comes to us from practitioners in other fields. Dr. Adolph Meyer, in an unpublished document instructs the

(23) Chapin, Stuart F., "Field Work and Social Research", pp. 73-76

psychiatrists who are his students as follows:-

"For any examination, the mode of approach is absolutely decisive of the result. The reserve of the patient is usually a factor to be reckoned with, or, if not the reserve, at least the unwillingness to show a clear picture of decidedly peculiar experiences. It is, therefore, necessary to gain the confidence by treating the patient "as a sensible man or woman", and, wherever the patient does not speak freely, to begin with questions about whether they have all they need for their comfort, to pass to some of the least irritating topics, such as will most likely elicit a pleasant answer and create a congenial starting point. In perfect privacy, and with the choice of a quiet confidential hour and the precaution of changing the subject when irritation begins to adulterate the account, and before the patient has been exposed to the influences of the ever present blase fellow patient, the statements can usually be obtained quite freely, often with a feeling of relief in the patient, and a distinct gain in the relation between physician and patient. That any chances for self-humiliation must be eased with verbal suggestion and that over appearance of obnoxious ridicule or dictation or correction and unnecessary argument must be avoided, should not require special insistence. It certainly requires a great deal of knowledge of man to choose the right moments and it is to such an extent a matter of inborn tact, that it is doubtful whether any written rules

can do more than bring out in a more definite order that which one has already.

Privacy, absence of hurry, frequent change of topic, with some deliberate padding to ease the strain, particularly "when irritation begins to adulterate the account", and yet through all, a clear conception on the part of the interviewer that a certain goal must, if possible, be reached, and a slow, steady, gentle pressure toward that goal, - this, in brief is our goal. Giving the client all the time he wants often leads to that self-revelation which saves our time and his, in the long run. Pressure of work! , Lack of time! How many failures in treatment are excused by these two phrases. But wherever else the plea of lack of time may be valid, it is peculiarly inappropriate at this first stage, for no worker ever has leisure enough in which to retrieve the blunders that result inevitably from a bad beginning. Save time, if need be, at some stage of treatment, but not at the First Interview. "The physician who comes in like a gust of wind," says Dr. Paul Dubois, "looks at his watch, and speaks of his many engagements is not cut out to practice his psychotherapy. It is necessary on the contrary, that the patient should have the impression that he is the only person in whom the physician is interested, so that he may feel encouraged to give him all his confidences in peace." And again, "let your patient talk; do not interrupt him even when he becomes polite and diffuse. It is to your interest

as well as his to study his psychology and to lay bare his mental defects. Help him, however, to get on the right road, and to give correct expression to his thoughts". "A great many witnesses", says Gross, "are accustomed to say much and redundantly, and again, most criminal justices are accustomed to try to shut them off and to require brief statements. That is silly". This inability to feel and to show concentrated interest in a client's individual problem is a fundamental condition of good social case work. (24)

THE DEVELOPMENT OF SOCIAL CASE WORK.

In the matter of method, social case work has perhaps given more definite cue to the pastor for the development of a technique in his ministry for the cure of souls, than any other discipline. Social work was originally, as everyone knows, almost exclusively a function of the church and clergy. This is true of many other forms of human service. Education, for example, was until comparatively recent years, conducted almost solely under church auspices. The last century, however, witnessed a rapid secularization of life. Secular agencies have become responsible for many social functions formerly conducted under church auspices, and have developed highly elaborate techniques for their specialized purposes. Prominently among these may be

(24) Richmond, Mary W., "Social Diagnosis", pp. 115-116.

placed various forms of economic and social relief, generally designated social work.

The social worker's primary task was to provide economic relief. An individual or family had met adversity, and it became necessary to extend aid. It soon became evident, however, that the mere doling-out of a little food, coal, or clothing to tide this needy individual or family over the temporary crisis failed to meet the needs of the situation. What should be done when it was discovered that the same individual or family kept coming back? Evidently, there was something fundamentally wrong in this situation that required more careful attention. More harm than good might be done by thoughtless giving. Individual and family morale and self-respect might be broken down, and the family permanently pauperized. Examination usually revealed that one or several of a wide variety of social causes lay back of the particular difficulty that brought the individual to the agency for help. If a service of permanent value was to be rendered, these causes must be reached and removed. It was dealing with this situation that the technique of the social case worker was devised. It consisted of a thorough exploration of social backgrounds in order to discover the deep-lying causes of the present trouble, and the development of a program of service, designed to remove, so far as possible, the causes of trouble, and to stimulate and aid the individual or family to cope successfully with untoward

circumstances.

COOPERATION OF EXPERTS DEMANDED.

The development of this method has called increasingly for the cooperation, both in diagnosis and treatment, of experts in various disciplines. Sickness of the breadwinner might be found to be the cause of the economic inefficiency of a family. This called for cooperation of the nurse and doctor. The sickness might be the result of unsanitary conditions for which the family was not responsible. This called for the help of the public health worker. Or economic inefficiency might result from mental deficiency or personality disorder; the mental hygienist or psychiatrist was needed to lend a hand. Or the fundamental trouble might be some sort of family disorganization requiring the cooperation of officers of the courts or possibly psychologists, sociologists, or others. And so with many other specialists. The task of the social worker thus, came to be, not the mere provision of temporary economic relief in order to tide a needy individual or family over a crisis, although that might be all that was necessary in certain cases, but rather the reclamation and permanent rehabilitation of that individual or family, and their establishment upon a new level of wholesome and successful living. It was in this process, then, that the technique of the social worker was developed. It involved the careful and exhaustive study

of each particular case to discover where the causes of trouble might be found, and the cooperation of competent persons in various fields both in diagnosis and treatment. It is fundamentally a practical program for helping people out of trouble, based upon as thorough a knowledge as can be obtained as to the nature and cause of the trouble. It is not the intention, here, to give a detailed description of the technique developed, but only to indicate the general lines of procedure, in order to discover what cues are given for the development of a similar technique for pastoral case work. It may be pointed out, however, that there is no new magic in it. This exploration of the entire social background, upon which diagnosis is based, is only the method of common sense systematized. Common sense, seeks to know all the facts and analyze them in order to discover the underlying causes of a present situation. But the social case worker has systematized this exploration. He has learned where and how to look for the significant facts, and has gained some insights into the methods by which their significance may be penetrated. And on the basis of knowledge and experience he has elaborated plans of treatment which have met with remarkable success. The minister would do well to saturate himself with the information thus available, both by becoming thoroughly familiar with the literature of the subject and by personal observation of

of the methods of social case workers. (25)

THE INTERVIEWERS.

It is interesting to discover the reasons why so few men in the ministry do spiritual work in social service. The following represent some of them as found by Shoemaker, in "A Young Man's View of the Ministry".

1. Some men are reticent and shy. This may come from an honest fear of dealing at close grips with people and is to be overcome by admitting the ineffectualness of ordinary religious work and by honest trial of something more vital, or it may come from giving into temperamental limitations which could be overcome by honest trial.

2. Some men honestly do not know how to go about it; it has been expected by their churches that they should know much of dealing with individuals. Their seminary did not teach them (and most seminaries are pitifully wanting in teachers who understand the hearts of men). They want a method. But there shall no method be given any man but the method of experiment, dealing with what he finds, not being fooled by appearances, learning by experience.

3. Some men are sincere in their desire to do good but they never have found anything spiritually electric themselves, and therefore have nothing to give.

4. Some men are just unconverted, hiding

sin in some cases, and fighting bitterly against those who want spiritual work done in the church because it will show them up. (I hate to say this, but I know it is true, and I do not want to keep it from young men who are considering the ministry. One of the shocks to a man as he comes first into the ministry is the amount of politics and office-seeking and moral mischief which goes on. If you come into the ministry, don't come with some disinfectant in one hand, and a street-broom in the other; come in clean and begin with yourself).

INTERVIEW ALLIED WITH INVESTIGATION.

Interviewing has been considered more closely allied with investigation than treatment. It is the starting point of investigation, from its clues one follows the half-forgotten, ill-observed road into the past, but it is the medium of treatment.

There is an interview which is the key to treatment. Through it, is to evolve the plan which will make each phase of treatment meaningful. Through its study we may learn some of the ways by which people are persuaded to take certain steps. Those to whom case work is a mystery constantly inquire how people are "made to do things".

We are patient with such ignorance. To conceive of coercion in this age of individualism is preposterous. Yet must we not confess that most of us are guilty of "bossing" now and then? We are all loud

in our condemnation of the dictatorial manner, or withholding a necessity until the wisdom of our decisions is acknowledged. But how many of us have been flattered to be told that no one else could have persuaded Mrs. A. to go back to her husband? Did she return with a full realization of all the difficulties and with new wisdom and courage, or was it because Rev. B. was so lovely she did not want to disappoint him? How many of us have had a secret satisfaction in the suspicion that our successor will not be able to maintain a certain confidential relation? Was it a relation more founded on admiration on one side and by pity on the other, than by a mutual understanding of problems and solutions?

Mr. Lee has recently used the words "executive" and "leadership", in the description of certain phases of treatment; but practically there are very few forms of treatment which permit executive impulse without unlimited leadership preceding, a leadership based on mutual purposes, established by confidence. We are all familiar with histories which record a series of memoranda, sending a man to a clinic, or escorting a child to a dentist. One feels that some unseen power commands but the rational is concealed from client and worker and is still less comprehensible to the onlooker. (27)

(27) Lucas, Jean M., "The Interviewer of Persuasion".

PERSUASION.

Persuasion is dependent on an appreciation of the power of personal desires and of purposes which control the direction of every act. Persuasion is possible when the distasteful and alienated things of life are consciously related to our interests. It is as if one connected the small silent wheel of an idle machine with the belt that brings power to the whole plant. The wheel moves as if by magic.

But how can we know where power lies? By thoughtful consideration of the story made up of the spoken explanations adorned by the brief glimpses of hidden purposes and interests. Often these moments of self-revealing occur during conversation, but sometimes they stand out in the process of investigation. We have an apologetic attitude toward this process. But though some of the creed may be outworn, we must not turn aside. Let us breathe new life into routine. Let us cease to be satisfied with facts and follow the footsteps of purpose into a living reconstruction of the past. A past, so revealed, illuminates the present. With such knowledge one may attempt persuasion, if it be conceived as the leading of thought to a vision of life as a whole. With such vision the immediate obstacle obscuring the horizon is easily surmounted. (28)

(28) Lucas, Jean M., "The Interview of Persuasion".

OUTLINE FOR RECORDING AND ANALYZING INTERVIEWERS.

Purpose - (When interview was previously planned include in Interview rather than in Discussion).

Physical Setting - (Home, office, persons present).

Approach - (may include manner, rapport, motivation).

Rapport - (making friendly contact).

Revealing one's interest.

Putting interviewee at ease.

Tying up with interviewee's past experience.

Letting interviewee feel that he is leading interview.

Using colloquial language.

Development of Interview.

Coping with attitude (definition of attitude: "the elements of an attitude are thinking, feeling, wishing, conditioned by early experience").

Allowing release of emotions.

Dealing with fears.

Meeting of objections.

Presenting of facts to get certain response.

Contradiction.

Promises.

Presenting impossible plan.

Letting interviewee present own plan.

Exaggeration of interviewee's suggestions.

Reassurance.

Interplay between personalities other than interviewer and interviewee.

Reasoning.

Contrasting plans.

Informing.

Consideration of difficulties.

Presenting a possible solution.

Compromising.

Planning.

Turning Point. (indicates crisis in conversation which may not be marked but always occurs).

Motivation. (definition: inciting action)

Use of incentives:

Appeal to prejudices:

- a) personal
- b) group: racial, national, religious, political
labor, social clubs, etc.

Interests.

Ambitions.

Pride.

Ideals.

Weaknesses.

Desires.

Tastes.

Esthetic Sense.

Sentiment.

Sense of humor.

Sense of justice.

Altruism.

Use of Comparisons. (recognition, evaluation, and utilization of new material).

- 1) Show effect of interviewer's interest. For example, did it make interviewee talk more freely, flatter his ego, make him feel important?

- (2) indicate the attitudes in interviewee which interfered with interviewer's establishing rapport and gaining free discussion of the difficulties.
- (3) Indicate reasons for and results of following interviewee's cues. For example, is it a means of showing interest, getting new facts, learning interviewee's attitudes? Does it make interviewee feel effective and assured?
- (4) Show not only the effect of presentation of facts but also the result. For example, does it give interviewee insight to his situation as a whole and take account of factors he had overlooked?
- (5) Does it appeal to incentives and coping with attitude result in making interviewee feel more effective, assured, over-assured, ineffective, more diffident, etc.?
- (6) Did the interviewer bring interviewee to take over without modification the plan the former had in mind?
- (7) Did the interviewer bring interviewee to compromise somewhat on his own plan, or did interviewer agree to compromise on his?
- (8) Did the two between them think out a plan of action which embodied the best ideas of both but which was different from what either would have thought of alone?
- (9) Did the interview leave the situation worse than it was before (it would never be the same as before) - the interviewee angry, or suspicious, or stubborn? (29)

SEQUENCE IN THE LISTENING INTERVIEW.

While the stages of the predominantly purposive listening interview are basically those of any interview, there appear to us to be certain modifications useful

(29) Myrick, Helen L., "Psychological Process in Interviewing", "The Family", March, 1926.

to distinguish. The techniques employed seem to vary with the stage in the sequence.

Experience would seem to indicate that the following sequence is most effective in the listening interview, establish common ground or common place of meeting (rapport); exploration for points of personality - strain or hidden strengths; selection of the experiences, attitudes, or aspirations shown in such exploration to be significant; closing the interview.

(1) Establishing common ground or plane of meeting:

Highly important in the listening interview is the seeking of a common place wherein the social worker and client can be equally comfortable. If adequately established, client and social worker might during this state reverse roles with little awareness of shift. Our discussion under "therapeutic listening" suggests further methods applicable at this point and the type of attitude which gives them meaning. The current literature and practice of interviewing has identified various techniques useful at this point, but these are too widely known to require any discussion.

(2) Exploration for points of personality - strain and hidden strengths.

We have found that the use of the short declarative sentence gives much greater release to the client's thinking than the question, which is likely to point too directly at the places of tension. The

interviewer voices in the declarative sentence an idea directly contradictory to what he senses to be the case, although it may be exactly the picture of himself which the client would like to create in his mind. But he intones his positive statement so non-committal that he does not influence but encourages the client in the choice of material which he articulates.

This technique of the suspended statement leaves the client feeling that the listener is unlikely to pass any judgment upon any unconventional motivation or conduct or unsuccessful experience which he might narrate. He feels that he (the social worker) is interested in and accepts any interpretation which he may wish to put upon it. With such an easy way out, he may talk freely, released from previous inhibitions due to pride, loss of nerve, or fear of social disapproval because of deviation from some accepted standard of conduct. In this exploratory listening, the social worker selects in his own mind points of weakness and strength.

Throughout the interview, indications of tension or relaxation, a questioning glance, or some facial expression may indicate as much as speech, the approach to some emotional difficulty or submerged aspiration.

Some personality difficulties so discovered may be dismissed as casual, others may be definitely excluded from further exploration as demanding the specialized skill of the psychiatrist or analyst; or the social

worker may feel that the client's personality has been sufficiently realigned about the difficulty to establish a fairly satisfactory adjustment unwise to disturb. Still other difficulties he may encourage the client to carry over for further articulation in the next stage of the interview. Once these are brought to light and properly articulated, he may enable the client to administer treatment to himself (dissolve points of conflict or worry, reinforce points of strength or assimilate painful experience by its reinterpretation).

(3) Selection of the experiences, attitudes, or aspirations shown by such exploration to be significant.

There is little value in listening to the client's favorite stories which rationalize his failures, or to the extensive monologues into which he launches to sidestep main issues. There are many such stories that the interviewer might listen to indefinitely to no avail. In such instances, it is necessary for the listener to take a more active role. He may do this by puncturing the client's recital with a concise question, or (depending upon the mood of the client) make quiet comment which guides his thought into speech more pertinent. As the client observes his listener and finds that he has less concern than he for certain painful experiences, his narration becomes increasingly self-steered.

When a delicate balance of comment and

silence has released some experience particularly painful, the skilled listener submerges all consciousness of individuality or sex. He becomes a little more than a piece of furniture, an "itself" rather than a "himself". Yet his actual aliveness is as great or greater than in other case work processes. As the disclosures become even more intimate or self-interpretation more painful to the client's ego, he submerges his individuality still more, except as he suggests an interpretation or makes a whimsical comment to reduce the client's intensity.

In such intimate unbarings as this, there is an inner reserve of the client that is too pain-laden for the interviewer to invade for long with his eyes, much less coerce into visibility. Seldom does he continue for any prolonged period eye-to-eye with the speaker, but by occasional glances of comprehension and reassurance he communicates his attitude of understanding and suspended judgment.

The skilled listener may get occasional introductions to skeletons of the inner self or the family. Toward them he evidences no emotion, such as the client might well anticipate from the enjoyment of others in the "true story" style of revelation. Rather, listening as an art frequently involves a dexterous consigning to apparent oblivion (so far as the person under strain can see) such intimate experience, though maintaining the enlarged understanding which such facts give.

At times, the social worker senses that the

full statement of painful experience or embarrassing motivation would be disintegrated, and not therapeutic. The skilled listener has acquired a delicacy of technique and a working familiarity with human motives. Guided by this knowledge, when full recital of experiences or motivations seems poor case work, he can fill in, detecting the inarticulated meanings as well as the spoken, reading the meaning of non-verbal gestures as well as the verbal. One client described this abridgement of experience in his comment: "I believe you will (carry through a proposed plan of treatment) because you understand the things that I haven't had to say to you."

The necessity for such spanning of areas of painful experience comes when the social worker is convinced that fuller recital brings fresh ego hurt or conflicting loyalties. The skilled interviewer is able to convey the impression that he senses his urgent desire to chronicle his experience or motivation, has appreciated his ambivalence of desire, and has filled in the interval in his experience. By quiet comment or facial expression, he indicates to him (client) that he has accepted this without approval or disapproval, and is ready to move forward with him in the case work relationship as if the results of his probing of self had been verbalized. At the psychological moment he gives the answer to the unspoken paragraph that it would be painful to articulate.

Throughout this stage of the interview, the

case worker is keenly alive for the saturation points of revelation. Before their possible occurrence he externalizes the situation and reemphasizes his casual attitude by whimsical or humorous phrase in which he is sure that the client can participate. Occasionally, he may even use a half-absurd parable. He keeps him (client) on this plane of triviality, even of absurdity, until the client has absorbed his attitude, is relaxed, and wishes to move forward from this new orientation to experience.

(4) Closing the interview.

The closing of the interview involves (a) clinching a new attitude or interpretation toward the experience, aspiration, or difficulty narrated, or the formulation of a new plan of action resulting from this revaluation, and (b) creating a healthy attitude in the client toward his more or less spontaneous disclosures.

With reference to the first, our experience has necessitated a distinction in methods between what might be called "suspended interview" and the "completed interview".

In the "suspended interview", the social worker includes in his plan of immediate treatment, a termination of the "listening interview" which leaves uppermost in the client's mind several questions, the answers to which cannot be evoked without extended time for further self-expression or decision. The client leaves with these questions in his mind to carry on with himself

a continued interview. The questions are so framed that the answers to them found by himself, carry a partial explanation of his predicament.

In the "completed interview" the social worker uses all his case work skill to bring to the client before the conclusion of the interview a definite decision or statement of evolving attitude, crystallization of self-plan, or formulation of evolving ideal. Such an interview must be used where the termination of the interview without decision or articulation of a plan or new attitude by the client would probably mean its dissolution.

Whether or not the client takes a "healthy" attitude toward his experience in the interview is almost wholly dependent on the attitude evinced by the interviewer in his role as listener. If he has accepted calmly and casually any intimate self-disclosures, it is very easy to remind him of his attitude through various well known interviewing techniques for putting the client at ease.

As the interviewer plans the closing of the listening interview, and as he enters later contacts with the client, it would seem that he lessens his helpfulness if he presumes to continue into the inner privacy of the other might seem to warrant. More devastating than helpful to personality integration is the attempt to maintain a relationship within that wall of reserve. An incautious reception and reference to intimate facts is likely to lead either into a deteriorating readiness

to discuss and to revel in highly personal affairs or failures, or also into increased reticence, resistance or the feeling of having been tricked into admission, it is such considerations as these that guide the plane on which the interviewing relation is discontinued. (30)

SERVICES OF SOCIAL CASE WORK.

The services which social case work renders elude classification into mutual exclusive types, or even clearly define groupings.

We can distinguish, however, three trends which are probably present to some degree of emphasis upon one or another of these three trends and various combinations of them probably account for the great variety of forms which social case work assumes. These three trends, correspond roughly to emphasis upon the environment, upon the interplay between the person and the environment, and upon the person in treatment. They are (1) making available and helping people to find opportunities for a more favorable environment; (2) counseling with people about problems of adjustment; (3) making professional use, for the treatment of difficulties of personality, of the relationship between the case worker and the client. A few illustrations may make these trends stand out more clearly, although it is important to remember that no one of them is ever seen isolated in social case work practice.

(30) Deihl, Mannie, E. and Robert S. Wilson, "Can Listening Become a Case Work Art", "The Family", June, 1933.

(1) Case work emphasizing the environment.

When it comes to offering opportunities, nothing is of value without the basic opportunity of all - the means of subsistence. Although social case work skills may enter into the way in which a bare subsistence is provided, social case work may be said to begin to function professionally where the client has enough energy, beyond merely keeping alive, to be able to exercise some choice of ways of adaptation and to respond to the opportunity for professional help either improving his condition or in making the best of it. Social case work with an emphasis upon environment may be thought of as a remedying of the gross inequalities of opportunity for choice. Perhaps it should have concerned itself much more than it has with the question why such gross inequalities of opportunity should exist, at any rate they do exist, and social case work, like medicine begins with human needs and works back to prevention. Extra nourishment, better clothing, medical care, employment, opportunities for special education for children deprived of them by lack of family income, recreation; contacts with sources of culture and religious inspiration; all these, social case work may find to be needed. The difference between pushing opportunities in front of people and preparing them to use greater opportunity as a step in education toward a better life adjustment is the contribution of skilled service in case work. Wherever possible, it helps people to find rather than give oppor-

tunities, and in doing so, uses skilled counseling and a relationship of confidence between the client and the case worker as well as environmental change.

(2) Case work emphasizing counseling or interpretation as a means of assisting the client in his adaptation. The social case worker may find that the environment is potentially good, but that the source of difficulty is in the individual's inability to understand and deal with it. Or, furthermore, the environment may be to a certain degree unfavorable, but unchangeable under present conditions, and the social case worker's task may be to help the person, by better understanding of himself in relation to the handicap, to adjust in spite of it. If it is true that much of our adaptation to life is done as automatically as walking and that consciousness focused on the process only where trouble occurs, the expert help of the social worker may be needed just at that point where the person senses something wrong, but is not able to locate the trouble, nor to know, for lack of experience, how to deal with it.

Illustrations of the use of the counseling emphasis in social case work are problems of marital discord, providing that these originate not so much in neurotic illness, as in misunderstandings, and unadjusted social relationships. Then there are individuals who are misfits in industry or in some social group, because their differences in background have not been realized

by others, and their behavior has been misunderstood. People need to be interpreted to each other and to themselves. In all this, it is inconceivable that clients would be able to make use of the service of a counselor unless they desired it although part of the service may be to give the client some idea of what it would be like to have such professional help. The word "professional" moreover, implies skill in giving counsel. It is not the same as instructing people, or telling them where the case worker thinks things are wrong. His right to do that may be questioned, as well as his ability to know with so much assurance the affairs of others. Counseling which may or may not mean the giving of interpretation, always implies a cooperative working together with a client on a problem which is after all, his. Whatever contribution the case worker makes out of a wider experience and with a trained intelligence to bring to the problem, must be given with all the skill of an educator who knows how to help people to learn for themselves.

(3) Social case work emphasizing the use of the relationship between the client and the case worker as the dynamic of treatment of personal difficulties. In each of the preceding descriptions of trends in social case work treatment, a relation of confidence between client and case worker has been assumed to be essential either to cooperative planning of environmental change, or to the client's reacting and understanding which would enable him to deal with his situation more effective-

ly. A few years ago, no one would have thought of using this relationship consciously as a force in treatment. A few persons had that "something" called personality which seemed to produce marvelous results in those who flocked to their influence, whatever might be their professional affiliations, or even without any at all. Many used this influence destructively. Few even now, understand much about it. Professional social case work has, however, benefited by the researches of the modern schools of psychoanalysis enough to have a working knowledge of a few simple principles. Briefly, there is some knowledge that changes emotional attitudes in people (and these may be the crux of their adjustment problem) and comes about only as they learn new attitudes by "feeling them through" with a person whom they can trust and to whom they dare to express whatever they feel, unhampered by fear. With a friend, one is afraid of loss of esteem, or of the emotion involvement of the other person, if he reveals the things in himself which may be causing him the conflict. A professional person without condemnation, who will not become personally involved, who will give support and understanding without trying to advise or solve the problem, is greatly needed in problems of emotional distress. Social case workers, trained in psychiatry, without trespassing on the field of the psychiatrist who treats the difficulties within the personality, are finding a certain use in their social case treatment for such a method of dealing with emotional

problems in their clients. The social case worker is still treating the social adjustment of the person primarily, and to that end is counseling with the individual in his attempts to solve his problems, but in cases where emotional, the client may gain from the relationship with the worker, rather than from anything the worker says, the dynamic which enables him to go out and conquer his ills.

Social case work where the emphasis is strongly on the relationship, is relatively rare, and is seldom used consciously but the relationship with the professional person is perhaps more often than we know the secret of a successful outcome, even where the main emphasis is on environmental change. It is the old story of the doctor's personality, rather than the doctor's medicine, curing the patient. We know just enough about it to be sure that there is something of vast potentialities, which since we use it in some degree constantly, we must, for the protection of our clients, learn to understand and use professionally. (31)

CASE WORK WITH THE UNMARRIED MOTHER.

Case work with the unmarried mother is like other forms of case work - which means that we must emphasize the use of diagnosis, evaluation, and participation; the wide uses of all resources, especially natural resources; a willingness to work long and patiently, to emphasize follow-up, and to study constantly all our

(31) Reynolds, Bertha C., "Can Social ^{Case} Work be Interpreted to a Community as a Basic Approach to Human Problems?"
p. 330-340

procedures; a determination to let rules and regulations go smash, to abolish our dependence on policies. And finally, the worker with unmarried mothers must cultivate certain virtues which every case worker should possess. I hesitate to name them--they sound so hackneyed when designated, even though so inspiring when possessed. Shall we say honesty, courage and skill? I really want to weave the expression in this way; skill backed by knowledge; honesty backed by skill; courage backed by skill. Someone else has expressed it much better for me and so I shall fall back on a quotation which I cannot identify. "The creative use of methods and knowledge which would otherwise be but mechanical tools gives color, warmth, and vitality to that relationship between human beings which is the adventure of social case work". (32)

THE PROBLEM OF POVERTY.

While its major concern has always been the maladjustments related to "problems of poverty", during the past several decades, the family welfare field has widened the conception of its service to include potentially social case work for all families desiring social case work service regardless of their economic

(32) Matthews, Catherine, "Case Work with Unmarried Mothers".
"The Family", October, 1932.

status. Now, with the pressure resulting from prolonged unemployment, family social work is passing through a critical period, affected by the social changes which are taking place as well as by an unusual pressure of work with inadequate resources and facilities.

The continued predicament of from eight to twelve million families of the unemployed, whose resources have been progressively exhausted during the last few years, is resulting in a constant lowering of the standard of living for a large proportion of our American population. This tendency is accentuated by the widespread reduction in wage rates in industry by part-time employment for a still larger group and by a marked inadequacy of relief standards forced by exhaustion of relief resources. Outside of the suffering resulting from these situations, the greatest danger is that the lowering of living standards and of adequacy of relief may become too casually accepted as inevitable, marking a retrogression for many years in the goals toward which we are striving.

There has already been a large increase in the number of children admitted to institutions primarily upon a basis of economic need, which in many instances means the breaking up of families. Since relief agencies are frequently unable to pay rents, there has been a marked "doubling up" of families in inadequate quarters and under unsanitary living conditions.

Accompanying these effects upon the population

itself, the inadequacy of relief resources in many communities is resulting in public demand that funds hitherto devoted to health, educational, and cultural activities, be diverted to relief purposes, thus threatening community services which are essential to social case work itself. This same tendency is evidenced in many family welfare agencies also, where the tremendous pressure of work with inadequate resources has forced a dilution of effort to a point where real social case work may seem impossible.

Many family social workers feel that relief is too often being offered merely as a stop-gap, as a safeguard against mob violence and dissatisfaction and as a substitute for more fundamental industrial and economic readjustment. Social work as a whole bears a large responsibility for constant interpretation of these dangers, with their results in family maladjustments, and a lowered quality of citizenship in the future.

All the foregoing, however, is merely the darker side of the picture, to balance which there is much that is encouraging. Communities have rallied to the support of social work as never before and where the confidence of the community has been gained in the past, professional social workers have been increasingly consulted in the development of community programs. There has been a marked increase in the number of volunteers working with family welfare agencies, with a better conception on the part of the agencies as to how

the unpaid worker can be the most useful. (33)

SHIFTING THE BLAME.

Everybody is familiar with the person who, when he has done something which troubles his conscience, finds someone or something other than himself to blame. Most of us have to look no farther than ourselves to find an illustration. Nobody seems to escape this tendency; a good many seem to be incorrigible. No matter what they do they are not to blame. "The woman tempted me and I did eat" - who could be expected to stand against a woman's wiles? Or they are laid hold upon by an irresistible impulse. Or they were influenced by bad companions, got in with a bad gang. Or they had been working too hard and this unfortunate slip was an inevitable reaction. Or they were not quite well that day, - ordinary folk offer such alibis for moral lapses as well as athletes for failure in their sports. One feels that one did not do what one ought to have done because one had not the physical vigor. We all have known the woman who develops a headache when faced by some unpleasant duty she wishes to avoid. And so one might go on to almost any length. The point is that these persons do not, as those who "rationalize" their conduct, refuse to acknowledge failure. They know that they have fallen

(33) Swift, Linton B., "Social Work and the Family".

"The Family, 1932, October.

below their own standards. If the fault were their own they would be blameworthy. They could not fully respect themselves. But the fault was not their own. Someone or something else really was to blame.

PATHOLOGICAL RESULTS POSSIBLE.

It would seem that pathological conditions not infrequently arise out of this persistent loading of blame for one's own failure onto others. There was the high school principal, known to the writer, who failed in one school after another because of his incompetence and moral lapses, but who never could bring himself to accept the responsibility for his failure. Someone else always was to blame. At least, one day, this principal poured out the story of an organized group of his own college alumni, who deliberately undermined his prestige wherever he went. Of course, there was no vestige of truth in it. He had simply developed a delusion of persecution.

The blaming of one's failures upon one's physical condition, also, seems easily to develop into a pathological state. The headache or backache which one develops to avoid an unpleasant task may become very real. Indeed, lying deep down and almost submerged in one's consciousness (most psychiatrists probably would say as a wish submerged in the unconscious) may be a feeling that almost any sickness would be better than the performance of his duties. And, behold the sickness develops and relieves one of obligation. J. A. Hadfield, who is an

exceptionally successful practitioner of psychotherapeutics, describes in his "Psychology and Morals", a "shell shock" hospital in which men are paralyzed, blind, deaf, dumb, suffering from severe headaches and other pains, but whose illnesses are purely functional. There is nothing organically wrong with them, but their physical symptoms are precisely those of men suffering organic and structural disorders. The cause, he says, lies in a disturbance of the emotions; they are the victims of a conflict between a sense of duty and the desire for self-preservation. The sickness, he believes, was unconsciously wished for, and it came. Whether or not one agrees with Hadfield's psychology, his facts are indisputable. Moral problems unquestionably lie at the root of many apparently physical disorders; the sickness is a way of escape from responsibility.

What we are interested to point out in all this discussion is that this method of seeking a scapegoat, of laying the blame on others instead of accepting blame, is one of the significant ways by which individuals who refuse to face the facts seek to quiet their consciences. It meets, sometimes, with measurable success. People manage to get along. But it is never wholly satisfactory. Down at bottom, one knows, unless his condition is distinctly pathological, that he is merely pulling the wool over his own eyes. And it bars the way to improvement.

IGNORING THE FAULT.

Still another device by which one may attempt to quiet one's conscience, in the face of personal failure to which some sense of guilt attaches, is to ignore, or attempt to ignore the fault. This is perhaps one of the most difficult courses to pursue, and almost inevitably results in a certain tenseness, anxiety, tendency to excitability and hysteria, moodiness, etc. For such a one, it is essential that he shall secure some special attention which will be reassuring as to the regard in which he is held.

Of course, this is by no means only a male phenomena. Women are likely to assume this type of behavior as well as men. Whether in a man or woman, there is likely to be developed an excessive sense of self-importance, the attempt to ignore one's failures may express itself in braggadocio which is really a compensatory expression of an inferiority complex. Or, in the efforts to call the attention, both of one's self and others, away from one's failure to measure up to one's own standards, one may develop neurasthenic or hysterical traits. At all costs one must get attention and gain the regard of others. Or one may get very active in the attempt to blot out of consciousness the uncomfortable sense of failure, and find one's self going around in circles.

There comes to mind a young woman who married a man who she was sure would give her a somewhat luxurious

life, and above all, social status. This was for her, the ideal "good" of life. To achieve this level was essential to the maintenance of her self-respect, for, on no other basis, according to her standards, could she have the respect of others. But the match has failed miserably in the achievement of her objective. She cannot admit it, however, even to herself. She would not, it is certain, admit the motive which controlled her choice of a mate, although it is perfectly apparent to her friends. She tries to ignore her failure, blot it out of consciousness. The result is many of the forms of the behavior described above - excitability, over-activity, self-assertiveness, moodiness, hysterical and sometimes quite violent outbreaks. Sometimes, indeed, it does not seem to be a far call from her condition to a definitely manic-depressive state.

This same sort of behavior is not uncommon in the case of a moral failure which one would ignore and cover up, and thus preserve one's self-respect and evade the sense of guilt. But it is very unhappy solution of the problem; it never quite achieves its purpose. Moral dereliction is not easy to ignore. The voice of conscience is not easily downed. (34)

These represent some of the phenomena which deserve the deliberate attention of the arbitrator in dealing with men and women who may be susceptible to one of these mental diseases.

(34) Holman, Charles T., "The Cure of Souls", pp. 165-170.

STEPS IN TREATMENT.

Among the steps in treatment, taken by the social case worker, the following may be briefly noted. This, it is to be understood, is the barest outline, and is given only for the valuable suggestions it carries to the minister for the development of a case work technique for his own purpose.

1. The objective is to secure the best possible adjustment, both by improving the conditioning circumstances and by releasing the powers of the individual, in order that life may be lifted to a new level of wholesomeness and success.

2. The process is one of intimate, personal, friendly counseling and neighborly service. It is not autocratic in theory or method. The worker must gain the confidence of the individual he seeks to help.

3. It must be recognized that help can be given only when it is desired. The individual himself must desire improvement and must cooperate to secure it.

4. He must be helped to face the facts. Nothing is so important as to help him clearly to recognize the actual facts of the situation, and resolutely to face them. Evasion is fatal.

5. His sense of personal responsibility must be cultivated. He must be brought to a condition of self-dependence; not otherwise can he maintain his self-respect.

6. Every possible resource for motivation toward such an end must be canvassed, and every possible dynamic must be released.

7. Whatever help can be given, and whatever service can be rendered, must be made available. The greatest help, however, is that which enables the individual to help himself; the rest is a temporary, however, necessary expedient.

LIMITATIONS OF SUCCESSFUL TREATMENT.

It will be helpful to consider some of the factors which impose a limitation upon successful treatment.

1. The element of time; Most case work agencies are overworked and most case workers have insufficient time for the quality of the work.

2. The facilities with which we have to work: These include the entire range of social resources of the community - agencies, services, privileges, laws, etc. - of every conceivable kind. Under this heading also might be included the general public understanding of social case work which to a certain extent determines the standards of work permitted in the community.

3. The degree of responsiveness shown by clients: Lack of responsiveness may be due to defective intelligence, to wilfulness, to distrust, or to any one of a number of factors. The degree to which responsiveness may exist determines to a considerable extent the

quality of the case work.

4. The status of scientific knowledge of human personality, of our social environment, and of their interplay; we have still much to learn about ourselves and about the environment in which we live, - both the natural environment which was created for us and the social environment which we have largely created for ourselves. Insofar as successful treatment depends upon accurate knowledge, it will be limited by the extent to which that knowledge has been revealed to us.

5. The equipment of case workers themselves: Social treatment will be no better than the conception of its possibilities held by those who practice it. It will be no better than the possibilities of the trained equipment which we bring to it. Ideally this equipment would include the qualities with which we were born plus that part of the experience and knowledge of the human race which bears upon the problem of human relationships.

If we scrutinize this list of limitations, it will become clear that they are in differing degree, subject to the control of the case worker. The element of time is at present controllable by the case worker only to a limited extent. This is also true of the facilities with which he works. Both of these factors are dependent upon the money available for the support of case work, upon the intelligence of the community, and its interest in case work, and upon the efficiency of case work

organizations for which case workers themselves are not usually fully responsible.

When we come to the responsiveness of the client, we have another factor which is frequently, if not usually, beyond the control of the case worker; but we have a good deal of evidence that a well equipped case worker can secure a greater degree of responsiveness from clients than used to be thought possible. In the equipment of the case worker and the availability of scientific knowledge, we have two factors well within the control of the case worker (at least in the sense that no one else is likely to contribute to their control in anything like the same degree). New knowledge about human beings and their problems, of the kind that can be used by social case workers, must in the future be carved largely, if not chiefly, out of the experience of case workers themselves. The organization of this knowledge into serviceable equipment for social treatment must also be made by case workers themselves.

Of these five possible limitations upon the quality of social treatment, then, three are largely within the control of social case workers. It would therefore seem that the study of social treatment on the one hand, and the study of the equipment of social workers on the other, are the two most promising leads for us in our attempt to discover how the quality of social treatment can be improved. (37)

(37) Lee, Porter R., "A Study of Social Treatment".
"The Family", December, 1932.

SOCIAL TREATMENT.

Social treatment itself is a combination of two types of effort, one of which is called executive and the other leadership. With respect to the executive aspect of treatment, improvement is relatively simple: It consists chiefly in a greater alertness on the part of social case workers to the needs of their clients and to the facilities offered by the community. It will be promoted through a somewhat better organization of the time and effort of case workers as they are. It will also steadily improve as community facilities for treatment improve.

Improvement in the leadership aspect of treatment depends upon a more profound understanding of human relationships, than we have now. It consists primarily in bringing to bear upon the problems of other personalities the resources of sympathy and understanding directed toward some definite end. Concretely, the problem takes form of changing attitudes, winning confidence, developing a greater degree of responsiveness, or releasing a client's own powers. With all these problems, case workers have achieved outstanding success. What we lack is an analysis of that success in terms of the thinking, the ingenuity, and the resourcefulness which lie behind it, an analysis comparable to the analysis of the step in investigation, the resources, and the procedure that make up the content of treatment

on the executive side.

Analysis of the leadership aspects of treatment cannot be made solely from case records. We must find our way beyond the case records, into the thinking and experience of case workers themselves. This is a process in which no one can help us; this mine must be worked up by our own efforts. It might be suggested as a practice promising greater improvement in the quality of our case work than would follow from any other, the regular analysis by case workers themselves of the factors which have entered into their conspicuous successes and failures in human leadership. (38).

THE JEWISH ARBITRATOR.

The foregoing pertinent material has been presented so that an understanding may be had of the equipment necessary to qualify the arbitrator of the Domestic Relations Court so that he may render his services expertly and with precision. It is vital that the arbitrator has first acquired a basic knowledge of the psychology of the group which he is to serve, and also an orientation of the typical environments in which his clients live. These knowledges will unquestionably facilitate many decisions which he may be called upon to make without the possibility of making serious errors. More so are these qualifications necessary, especially when the day will arrive, when the Presiding Justice of the Court of Domestic Relations will learn to depend upon the decisions of the arbitrator.

(38) Lee, Porter R., "A Study of Social Treatment".
"The Family", December, 1922.

SUMMARY AND RESULTANT CONCLUSIONS.

There are certain fundamental prerequisites required of the Jewish arbitrator in his work in the Court of Domestic Relations which are essential to the peculiar type of service he must render. Firstly, it is necessary that he have the ability to interpret the behavior of this ethnic group which is quite different in its distinct mores from any other group. The presentation in Chapter I, "An Historical Sketch of the Jewish home", displays the various manifestations of the Hebrew family in the Biblical period. It is to be noted that the attitudes and ideals of this period have undergone evolutionary changes. However, it is to be recognized that in a certain basic sense, the type of Jew who comes into this Court, is governed by both the events and laws prescribed in Biblical literature.

In the post-Biblical period beginning with the ethical doctrines of the home, we discover that the evolutionary process prescribes interpretations of Scripture to meet with the new mores of the Talmudic period. Certain modifications and reservations have been made; obligations and rights of the marriage relations have been propounded to meet with the peculiar circumstances existent in that day. The rationalism of these domestic concepts has been proved and supported by many later commentators. A comparatively recent example of these rationalizations is provided by Professor Chaim Tchernowitz in an article

which appears in the Matkufah on marital considerations.

Fundamental principles relating to fidelity, conjugal relationships and the legal rights and obligations of husband and wife are expounded so that the many exigencies arising out of the marriage institution may be provided for.

The Levirate marriage is an interesting institution in Jewish life and the phenomena manifested in the comparison between the Biblical and Talmudic period, is of great interest and affects the Orthodox Jewish home in this modern day.

We note that polygamy was a recognized institution in Biblical literature but frowned upon in Talmudic literature, thereby exemplifying the evolutionary process. Divorce has also been re-interpreted, and cause and effect noted as part of this evolutionary process.

The author purposely presented these historical backgrounds so as to show the varied phenomena which influence the Jewish family in the modern American environment in spite of the transposition from the early historical period to modern times. Even though the Jewish family is greatly influenced by the mores of the country in which it resides and by the people who surround it, still there is a marked transference of attitude which must be understood and appreciated so that the Jewish arbitrator may plumb the inner problems of the Jewish family which outwardly may appear to be so intricate and perplexing.

In contradistinction to the historical background of the Jewish family the author presents in Chapter II, "A Modern Ideology of the Family Institution", the wherefore of which is to contrast the phenomena of modern day living with the historical past of the Jewish people. It is interesting to note that the modern family as a social force and as a social group has many more points of agreement than points of difference. However, the standard of living which depends primarily upon the mores of the times is fundamentally different. The same applies to social conduct and the moral aspects of modern life.

The function of the family from the point of view of the conservation of social possessions, and its social progress appear to be in agreement with the past, with the exception however, when these social phenomena are dictated by the "zeitgeist".

It must be remembered that the Talmudic prescription "Dina Demalchutha Dina", the law of the country shall be the law of the Jew, recognized that the monogamic and polygamic forms of the family have undergone radical changes throughout the Talmudic period, for the Jewish family accepted the interpretation of the law as it prevailed in the country in which it resided.

The author continues to offer the various reactions of sociologists regarding the marriage institution, the meaning of marriage, the pitfalls of

marriage and then some of the causes of marital disruptions: - instability and illusions.

One of the most vital problems which the Jewish arbitrator must contend with is that of broken homes and the various tensions which usually make or break the modern home. Consideration is given to the current conceptions held by the husband and wife regarding conjugal freedom, sexual love and the double standard of morality.

It is vital that we discern the underlying causes which disrupt the home due to moral separation of parents, thereby discovering the reasons for family discord and family disorganization. We then find that there is a constant challenge of individualism, especially when the blending process does not take place during marriage. Another prolific cause is to be traced to incompatibility brought about by external influences, as that of relatives-in-law, jealousy and the result of exploitation and disillusion.

The broken home then begins to present new problems. Family desertion becomes one of the outstanding effects. The threshold of the divorce court becomes imminent. The psychological effect upon husband and wife and its result upon the whole structure of the home must be taken into consideration. It is important that we consider the alleged causes for divorce, perhaps with an idea of forestalling its dire results, if that is

possible. Consideration is then given to women and their position in the divorce situation, and the effect upon children who are the innocent victims of such a situation, and finally, certain changes in the legal and social approach to divorce is discussed.

From the foregoing, the author intended to convey the multifarious manifestations of this very tragic situation in the modern American family. In dealing with the Jewish problem, it is of great urgency that the arbitrator is cognizant of both the past and the present in his application to this work.

Social agencies have done yeoman service in the family court since its inception. Yet there are many misgivings due to the ultra-legalized structure of the Court of Domestic Relations which will not permit social arbitration to become the means of conciliating family problems. This court has advanced in great strides, but alas, because of the character of legislation relating to it, has resulted in a collection agency rather than a means to solve these complicated problems. If we peruse the act covering the conduct of this court, we will discover that it is primarily a judicial tribunal which represents a legal whip exercised over husbands who are remiss in the fulfillment of their obligations to their wives and families. This does not mean however, that we are to eliminate the Presiding Justice of this Court and in his place substitute an arbitrator, as Judge Goldstein in his book "The Family in Court", would have

us believe.

In the final analysis, the arbitrator whether he be Jewish, Protestant or Catholic, would be helpless unless there existed a means of compelling the execution of his decisions. There is a distinct place in the Court of Domestic Relations for a Presiding Justice. However, the office of Justice of this Court, should be utilized as the medium of the legalization of the decisions reached by the arbitrator who would constantly be in contact with the various existing social agencies. In other words, after the arbitrator has attempted to apply the various socio-scientific remedies, his decision is to be sent to the Justice who will cause it to become an order of the Court.

The place of the lawyer in the Court of Domestic Relations is one of the most debated questions in this modern day. From the author's experience in most cases, the lawyer is really a detriment in cases where arbitration is a possibility. However, there is a distinct place for the attorney-at-law in this court in those cases which only involve legal technique and application.

In discussing the Jewish arbitrator who should unquestionably be a Rabbi, it is well to consider the prerequisites necessary to function in this capacity. The Jewish ministry as well as that of other religions and denominations has undergone a metamorphosis within the past century. There was a time when the minister had to be classified as the preacher of the word of God. Therein his service to his community began and ended.

Today we recognize that the synagogue and church have become a social medium and from this institution there radiates a social idealism. The minister is therefore compelled to equip himself in diversified fields beyond the merely theological, and we find him today in a leading position in the social service profession.

In Chapter IV, "The Rabbi as a Functionary" in the Court of Domestic Relations", the author analyzes his qualifications which are of great necessity and urgency as the arbitrator of this court. Consideration is given to the field of social service and the art of healing which fundamentally presupposes a fine knowledge of neuroses, habit formation and other psychological and physiological phenomena.

There was a time when the minister would apply traditional theology and the quoting of scriptures to those who suffered from human frailties. Today the minister applies his knowledge of the modern sciences to meet with many of these perplexing problems. More so, the social sciences have discovered new paths upon which the minister treads so as to reach some constructive conclusion in the service which he is rendering. These social sciences will lead him on to an understanding of social causation and will tend to rationalize his theology when dealing with human souls.

The history of social service work and its classification with work of charity is discussed, and its gradual emergence from this category into a science

is shown. Humanity and science are not contradictory.

The changing family resulting in so many domestic complications must be dealt with by the arbitrator. The matter of social diagnosis is a task demanding high qualification, calling for the resources of knowledge and method which can be placed at the disposal of the social worker. Unless he learns that every situation with which he deals is an eddy where economic, political, educational and other civilized forces, complicated often by racial and religious issues, meet and swirl within the lives of particular human beings, he is unqualified for his task.

Amongst the prerequisites of the arbitrator we have concluded that he must have an understanding of social psychiatry and principles of penology and criminal justice.

The arbitrator must accept the role of the case worker. He has three major resources; He can make available to the client, services, material things and a relationship. The use of services and gifts is determined by the needs of the case work objectives, but the worker-client relationship is implicit in every situation. It varies, whether slight or meaningful for the client, it is significant for the case situation. It has a bearing on the effort which the client will put forth on his own behalf and the value which he will place on contributions of time, of effort, of relief. From contact with the worker, as his use of tools, he may derive the emotional release, the confidence in himself which he

needs for the accomplishment of his purpose.

The arbitrator will, we think, be one who has satisfactorily worked out in his job a synthesis of reason and emotion. In a very humble spirit he will take up the burden that the conscious use of emotion in the worker and client relationship undoubtedly involves.

The arbitrator is also called upon to deal with the conflict of old and new generations. In the home this conflict between old and new is an especially difficult problem. Relations within the family group are the first of which a child becomes conscious; they become vitally a part of what the individual feels in his very self. Many an immigrant would wish to close the door of change in traditional relationships within the home. Yet there the biggest struggle of all may take place. Of course, many immigrants, perhaps most of them, meet the problems which the self-assertive second generation brings, and work them out with their children without too much heartache on either side. But the foreign families who come to a case worker almost always have as one of their difficulties, and often as their chief problem, a lack of understanding and harmony in the home.

In such situations, the case worker has the problem first of understanding the old ways; he must learn to see in them an attempt to express an ideal. He must be able to point out old virtues under new guises. He must be patient, and realize that a radical

change in point of view takes time. All the tact and insight and imagination the case worker possesses will be called upon in interpreting the parents and children to each other, and American ideals to both.

The arbitrator must use the term "case work" to embrace more than the investigative procedure of studying individuals; they mean by "case work" a process which includes besides investigation, diagnosis of social situation and treatment.

In the development of social case work, the matter of method is fundamental. Social case work was originally almost exclusively a function of the church and clergy. This is true of many other forms of human service. Education, for example, was until comparatively recent years, conducted almost solely under church auspices. The last century, however, witnessed a rapid secularization of life. Secular agencies have become responsible for many social functions formerly conducted under church auspices, and have developed highly elaborate techniques for their specialized purposes. Prominently among these may be placed various forms of economic and social relief, generally designated social work.

However, it is to be clearly understood, that the arbitrator must have the cooperation of experts in the rendering of his service. Sickness of the breadwinner might be found to be the cause of the economic inefficiency of a family. This calls for cooperation of the nurse and doctor. The sickness might be the result of unsanitary conditions for which the family was not responsible.

This calls for the help of the public health worker. Or economic inefficiency might result from mental deficiency or personality disorder; the mental hygienist or psychiatrist would be needed to lend a hand. Or the fundamental trouble might be some sort of family disorganization requiring the cooperation of officers of the courts or possibly, psychologists, sociologists, or others. And so with many other specialists. The task of the social worker thus came to be not the mere provision of temporary economic relief, in order to tide a needy individual or family over a crisis, although that might be all that was necessary in certain cases, but rather the reclamation and permanent rehabilitation of that individual or family, and their establishment upon a new level of wholesome and successful living. It was in this process, then, that the technique of the social case worker was developed.

This case work method involves both diagnosis and treatment. It is fundamentally a practical program for helping people out of trouble, based upon as thorough a knowledge as can be obtained as to the nature and cause of the trouble.

The science of interviewing is of vital concern to the arbitrator. Interviewing has been considered more closely allied with investigation than treatment. It is the starting point of investigation, from its clues, one follows the half-forgotten, ill-observed road into the past, but it is the medium of treatment.

There is an interview which is the key to

treatment. Through it, is to evolve the plan which will make each phase of treatment meaningful. Through its study, we may learn some of the ways by which people are persuaded to take certain steps. Those to whom case work is a mystery constantly inquire how people are "made to do these things".

Persuasion is another very important element. Persuasion is dependent on an appreciation of the power of personal desires and of purposes which control the direction of every act. Persuasion is possible when the distasteful and alienated things of life are consciously related to our interests.

A presentation of an outline for recording and analyzing interviews is purposely provided in Chapter IV, which indicates the various prerequisites required, for the fulfillment of the desired objective.

There must be sequence in the listening interview. Experience would seem to indicate that the following sequence is most effective in the listening interview; establish common ground or common place of meeting (rapport); exploration for points of personality - strain or hidden strengths; selection of the experiences; attitudes, or aspirations shown in such exploration to be significant; closing the interview.

There are three essential trends in the service rendered by social case work. They are (1) finding opportunities for more favorable environment; (2) counsel

ing with people about problems of adjustment; (3) making professional use, for the treatment of difficulties of personality, of the relationship between the case worker and the client.

A most delicate situation is dealt with by the arbitrator in coping with case work relating to the unmarried mother. Case work with the unmarried mother is like other forms of case work - which means that we must emphasize the use of diagnosis, evaluation, and participation; the wide use of all resources, especially natural resources; a willingness to work long and patiently, to emphasize follow-up, and to study constantly all our procedures; a determination to let rules and regulations go smash, to abolish our dependence on policies. And finally, the work with unmarried mothers must cultivate certain virtues which every case worker should possess.

Under the headings "shifting the blame", "pathological results possible", "ignoring the fault", we find some of the greatest tests of the psychological equipment of the arbitrator. His knowledge of human nature is challenged not alone in the interview, but in the application of various remedies which he may desire to prescribe. If need be, it would be much wiser to call in the psychologist, rather than to depend upon his own qualifications.

There are certain steps in treatment which should be followed very closely. The objective is to secure the best possible adjustment, both by improving

the conditioning circumstances and by releasing the powers of the individual, in order that life may be lifted to a new level of wholesomeness and success. The process is one of intimate, personal, friendly counseling and neighboring service. It is not autocratic in theory or method. The worker must gain the confidence of the individual he seeks to help. It must be recognized that help can be given only when it is desired. The individual himself must desire improvement and must cooperate to secure it. He must be helped to face the facts. Nothing is so important as to help him clearly to recognize the actual facts of the situation, and resolutely to face them. Evasion is fatal. His sense of personal responsibility must be cultivated. He must be brought to a condition of self-dependence; not otherwise can he maintain his self-respect. Every possible resource for motivation toward such an end must be canvassed, and every possible dynamic must be released. Whatever help can be given, and whatever service can be rendered, must be made available. The greatest help, however, is that which enables the individual to help himself; the rest is a temporary, however necessary expedient.

From the author's experiences in the Court of Domestic Relations, these prerequisites are of great importance. If this office will be created in the Court of Domestic Relations, the Jewish arbitrator will unquestionably be impelled to be prepared for this humane service with a background similar to that prescribed in this book.

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APPENDIX.

The following represents a few of the actual cases (a) in the Court of Domestic Relations which could be advantageously administered by an Administrator.

Mr. and Mrs. A had two children. They had been married thirteen years and had been very happy. Mr. A had worked with a wholesale jewelry concern and took a great deal of pride in his work. He had always supported his family adequately and had accustomed them to high standards of living.

He had a good employment record. When the depression came, he began to earn less and less money. He no longer could give his wife and children the things he had been so glad to give them. Then he began to think of himself as a failure and soon turned to drink for consolation. In a short time, he lost his job because he drank. Then the family was in desperate straits. Mrs. A. did not know what to do. She could not understand this change in her husband, who had been such a good husband. She knew of no one to whom she could turn for advice. A neighbor told her about the Domestic Relations Court.

(a) Compiled by Miss Helen Thoma, a social worker representing the Brooklyn Bureau of Charities functioning in the Court of Domestic Relations.

She went there seeking help. Yet when she realized what Court action meant, she was very hesitant about taking it and felt that her husband would be even more antagonized. It was possible to refer her to a Social Agency where the difficulties were worked out and the home re-established.

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Mrs. B. was an unusually attractive woman, but she looked ill when she came to the Domestic Relation Court. She weighed only ninety-six pounds. Her husband whom she had persuaded to come with her, was unshaven and carelessly dressed. He also looked discouraged and ill.

The couple had been married five years and had one baby. Mr. B. admitted that he had been beating his wife and recently he became interested in another woman. Gradually, the story came out that for the last two years, Mrs. B. was ill and in need of an operation. Due to her illness, she was nervous and irritable and no longer interested in her appearance or in recreation with her husband. She feared the operation which was necessary.

After a short time, Mr. B. turned to a group of single men, who were free to come and go as they wished. These men had dates and before Mr. B knew it, he was also having dates and became involved with

a girl.

It did not require Court action to straighten out the situation in this home. An interested social worker was able to help them.

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Mr. and Mrs. C. had been before the Judge. Mrs. C. first admitted that her husband was unemployed, so there was little that the Court could do to straighten out their troubles.

A probation officer, who had been working with the man felt that Mrs. C. was mentally ill, but no one had taken the time or the interest to explain Mrs. C.'s mental condition to her husband or obtained co-operation in arranging for proper physical and mental care.

Because of the situation between the parents, the five children were unhappy. The oldest son was Mrs. C.'s favorite. The rest of the children resented her attitude and one of the girls was threatening to leave home. A social worker was able to arrange for mental examination and treatment for Mrs. C. and eventually the whole difficulty was worked out happily.

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Mrs. D's sister came to the Domestic Relations Court for assistance in working out her problem.

Mrs. D has recently been in Kings Park State

Hospital and had been paroled to her sister, but since she had been paroled, Mr. D had behaved very strangely. He would not go to see her nor was he interested in providing for her financially.

The couple had been married many years and had on child, 15 years of age. The child was fond of both her mother and father and was unhappy because of their difficulties. It was obvious that Mrs. D's sister, even though her intentions were sympathetic, was helping the estrangement because she was condemning Mr. D to his wife and child.

Through a social worker, it was possible to get Mr. D. to re-establish the home for his wife and child and supervision and assistance for Mrs. D was provided. At the present time, the family is again a happy unit.

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Mr. and Mrs. E were married in 1929 and lived together happily until a year and a half ago, when their only child was born. This child was mentally deficient. The father was not able to stand the disgrace of having a child, who was not normal so he left and went to another state. The mother could not bring herself to part with her child, although she realized that she could not give it adequate care.

It was only after a social worker had been able to interpret the whole situation to her, that she

was able to place the child in a proper institution, where it is being trained.

After this was done, efforts were made to reconcile mother and father. Although this has not been accomplished as yet, the husband now writes to his wife, goes to see her occasionally and provides for her financially.

It is hoped that eventually the couple will become reconciled.

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Mr. and Mrs. F were both Irish, quick-tempered easy-going and happy-go-lucky. They had been married several years and had three attractive children.

Mrs. F had reached her menopause and she was affected mentally by her condition. Her husband realized that she was not caring for the children adequately any longer, but did not know what was the matter with her.

He became discouraged and began to drink. He had a good job, which he was in danger of losing.

Finally his wife's physical and mental condition were interpreted to him and he was persuaded that the best thing to do was to commit her to an institution for a time. He did this. A relative who had no home, but was fond of the children, was persuaded to come and keep house for the family. Mr. F, who loved his wife, still misses her and is unhappy because of

her illness. He has stopped drinking and is saving his money. He hopes eventually to have her back at home with the children.

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Mr. and Mrs. G. were a very young couple. They had two youngsters. Mr. G was a Filipino and Mrs. G was an Italian. Mrs. G had been very unhappy in her own home. Her father was born in Italy and had old-fashioned Italian ideas of the manner of rearing a daughter. She was born in this country and tried to live according to American standards. Finally, she became tired of her father's strictness and went to live with Mr. G. A month later she became pregnant.

Through a social worker, her father's consent was obtained and the young couple were married.

Mr. G had a good job, but he liked to gamble and many times lost his whole week's salary.

Mrs. G began to think her marriage a failure and was extremely unhappy. She left her husband and went to live with a girl friend in a furnished room.

A social worker again is trying to work out the situation, and hopes to be able to provide recreation for Mr. G. which will not necessitate the spending of all his salary and is trying to help Mrs. G to be a better housekeeper and mother.

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Mr. H. worked in the Street Cleaning Department. He was Irish, a big, husky man, who liked prize fights and baseball games.

His wife, a young Italian girl, was quiet and reserved. She did not share her husband's interest in sports. She was clean and tidy and his carelessness about his personal appearance and around the house annoyed her. She tried to reform him into the kind of a man she saw in the movies. They had only one child.

Mr. H. could not understand why the girl he married, had suddenly changed into a nagging, fault finding wife and so he came to the Domestic Relations Court to find out what could be done about it.

Here again, the social worker stepped into the breach and attempted to interpret the husband's attitude to his wife, and to guide them so that their home life would become more congenial.

She persuaded Mrs. H to cultivate some interest in sports. She tried to help Mr. H develop a taste for music.

At the present time, this situation is happier and more hopeful.

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Mr. J. was a World War Veteran. He was a young man when he entered the service and was wounded while he was over-seas.

The J's were married before he went to war. They were a happy family and owned their own little home. Some time elapsed before Mr. J came back from the war. He seemed to have changed. At first, his wife thought it was just because the experience had been so horrible and that he would soon get used to being at home with his wife and family. Instead, however, as the years went on, Mr. J became more and more eccentric, and finally, impossible to live with in peace.

She took the three children and returned to her mother's home to live. Mr. J seemed to be happier by himself. He got a job and was adequately supporting his family. Mrs. J was frantic. She wanted her home and she wanted her husband's love. The children were fond of their father.

A thorough study of the situation by a social worker revealed the fact that Mrs. J's parents had a decided influence over Mrs. J. They still felt as though she were a child and tried to direct her life. They had pointed out Mr. J's shortcomings to her and magnified them. Gradually she turned more and more to her parents until she really became dependent upon them instead of her husband. It took a long time and a great deal of patience to help make her realize what had happened, and it is still a slow process to re-unite husband and wife, but the situation looks hopeful.

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Mr. K was born in North Carolina. He was an attractive Southern boy, easy-going and slow of speech. He had served in the U. S. Navy for four years. He is a steam-fitter by trade.

Six years ago, he met his wife in New York and married her. She persuaded him to live with her parents and they are still living there.

In the home are also two sisters and a brother. Both girls are working, making good salaries and are supporting the home.

Mr. K's work is irregular and he feels he cannot contribute his share for his wife and their only child's support.

Last year, his wife's father died and since then he has had no means to support his family. Argument ensued. He felt that he was one man against a group of women. He had just about made up his mind to desert and go back to the Navy, but his love for his wife was the only reason that persuaded him to go to the Family Court to discuss the situation.

Now Mr. K. and his wife and child have their own apartment and although they are living in poverty, they seem to be happy.

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Mr. and Mrs. L are a Polish couple and have three children. Mr. L was born in Poland and had not come to this country until he was a young man.

His wife was also born in Poland, but had been brought here when she was only a few months old.

Mr. L had old world standards of conduct for both his wife and children. He felt he should be head of the house and that his decision should never be questioned.

Mrs. L. was used to this type of family life and it was not until the children reached the age of adolescence that she began to realize that in this country standards for both wife and children were different. She was torn between her affection and respect for her husband and her desire to keep her children happy.

A social worker was able to persuade Mr. L to attend some adult citizenship classes. Finally, Mrs. L was also interested in cooking and home-making classes. It was arranged that the children would spend a certain amount of time with their parents listening to history and customs of Poland.

Eventually, it is hoped that a better understanding between the old and new generation will be worked out.

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Mr. and Mrs. M. were still living together and Mrs. M was afraid her husband was going to leave her. He had a C. W. A. job. The couple have two children. Mrs. M. admitted that she had no control over either child. The children quarrel and this makes Mrs. M nervous. She

and her husband also quarrel. They have been married five years and Mrs. M is very much upset because her husband demands a separation.

After a social worker arranged for a physical examination, it was found that Mrs. M needed an operation. Arrangements were made for her to be operated on, and a visiting housekeeper was provided to care for her children until she is well again.

She was taken to the Organization Nursery and allowed to help in caring for the children. She learned part of the routine which is necessary in every home and carried it out to a certain extent in her own home. As Mrs. M became less and less nervous, and became more patient with the children, their nervousness and irritability also decreased, and Mr. M was able to enjoy quiet and peace in his own home.

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Mrs. M. had started proceedings in the Family Court. She tried to get support from her husband. She came to Court to say that the day before he had been arrested while intoxicated and was now in the hospital. She was anxious to have him remain in the hospital until a complete study of his condition had been made. She claimed he had been drinking for the last four years and that he had had a violent temper during these years. She traced the changes in her husband to an accident when he fell and had a concussion of the brain. She

had never been able to persuade him to be examined and now that he was in the hospital, she was anxious for a physical examination to be made. The couple have been married eleven years and have three children.

The result of the examination showed that Mr. M needed a very delicate brain operation. This operation was performed and at the present time he is away for convalescent care. The doctors hope that he will be quite normal when he is released.

A social worker has been able to obtain a promise of a job for him when he returns.

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