

The Psychological Implications of the Practice of Divorce Law

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As young lawyers most of us have had the difficult experience of sitting across from a divorce client with serious misgivings as to our ability to secure an equitable solution to the problem at hand. Since my law degree preceded my training in psychology, I have often faced this very problem. Perhaps if we look at our problem from the point of view of both disciplines some small ray of hope may emerge.

Our Western culture took a long period of time to recognize the fallacy of male supremacy. Throughout the early history of our laws there ran the prevailing principle that the woman was a semi-chattel, to be used for tension reduction of the male through intercourse, and for perpetuation of the race. However, the Industrial Revolution, coming as it did in the mid-nineteenth century, began to find a place for females who were found to have characteristics distinctly suitable for repetitive tasks. As our civilization gained momentum toward becoming an industrialized society there were an increasing number of jobs available for women. It must be admitted that the early infiltration of women into industry was slow, but as industrialization progressed the status of the individual woman working outside the home took on a new meaning. Recognition of women as individuals was further increased by certain of the wealthier feminine members of our society, who felt that women had been downtrodden for centuries.

With this growing movement toward female emancipation there became an increased recognition of the woman as an individual apart from the role that she played as the bearer of the next generation. Feminist movements increased the tempo of the emancipatory process, finally resolving itself in allowing the women of our various Western cultures to participate more actively in the affairs of our society. Vestiges of male supremacy still remain however, within our concept of divorce; for example: the choice of the domicile is still the husband's, and the wife must conform.

It is only natural that such a basic change in behavioral patterns would produce a change within our laws. The early divorces were granted only upon special legislation for each individual case. While this early approach may have been somewhat unfair to all except the wealthy, it served to highlight the need of other members of our society who might also require freedom from their

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respective mates. History reveals that most of the early petitioners for divorce were men of political power who wished to be freed from a wife in whom they no longer found interest. The woman, in her slowly awakening emancipation, was usually not the aggressor in securing these early divorces.

The legislatures in the United States gradually realized that divorce was a breach of contract which properly belonged within the judicial chambers. The early acts in some cases called for complete divorce, while others called for only limited separation and maintenance. The disparity of the laws passed by the legislatures of the various states may be readily seen, for example, from the fact that in Ohio one may secure a divorce upon gross neglect, which covers many phases of incompatibility, while in New York only adultery is grounds for divorce. Differences are also seen in limited separation actions, Ohio having long recognized adultery as a basis for both separation and divorce; in contrast New York did not recognize adultery as a basis for a suit for permanent separation and maintenance until 1947.

Behavior patterns were further being changed by the arrival in the United States of large numbers of immigrants from all over Europe. Many of these people brought with them rigidly controlled attitudes regarding the intimacies of family life. These immigrants inter-married not only among immigrants from other countries but with native born citizens. The bringing together of families of varying backgrounds added to the richness of American industrial life, but brought many conflicts into the marriage chamber. These conflicts were not only problems of intimacy but were also problems upon the raising of children, birth control, attitudes toward education, etc. It is hoped that these conflicts will be reduced as our immigration has slowed down. However, attitudes tend to be passed on from one generation to another through a process which the psychologist calls "introjection." Introjection occurs because the child tends to imitate the elders that it admires. The parents being the elders most closely associated with the child—the attitudes of the parents are gradually absorbed sub-consciously within the child.

Added to the other problems we find that our clients are drawn from families that vary widely in socio-economic positions which influence attitudes toward family living. We may have on one hand a woman who comes from an old, wealthy family desiring a divorce from a successful man who has pulled himself up by his bootstraps. The aggressive attitudes that have brought the man success are incompatible in such a case with those of the woman who faces life with a more static approach. An example of another problem we have in this area is when both man and

wife come from middle class homes, with the wife having absorbed extremely ambitious attitudes from her family. On the other hand, the man may be content to remain in his present socio-economic status. Therefore, there is a constant conflict between the two regarding the amount of effort that should be put forth to attain economic security.

When we add together the problems resulting from cross cultural differences, socio-economic disparities, and the growing recognition of woman as an individual with rights, we would have many problems if there were no laws of any type. However, when you add the above basic differences to the attempts of our legislatures to define certain behavior as legal, and other behavior as non-legal we, as divorce lawyers, are forced to accept a patchwork of problems that appears unequalled in other areas of the law practice.

To further illustrate, the Ohio Legislature has prescribed certain grounds for divorce, but these grounds do not always meet the test of behavioral reality. The Ohio law states that one may obtain a divorce upon gross neglect, and yet we find many women who accept severe neglect of their husband as part and parcel of male behavior, and accept it without ever going into a lawyer's office. This often comes from the type of family where the girl identifies closely with her mother who accepted this behavior from the father, and was content to live with the situation. We have the other extreme where the woman immediately sues for divorce if the husband fails to provide her with adequate Christmas and birthday presents. Male situations of a similar type also occur.

The Ohio Legislature has prescribed cruelty as a grounds for divorce. It is very difficult to define legally what amounts to cruelty. When most of us think of cruelty we tend to think of flogging, and a physical type of violence. There are many varying degrees of what is cruelty, and what may be cruelty for one client is completely normal behavior in the marriage for another. An example of the two extremes may be seen by a case in which the husband sues for divorce immediately upon his wife throwing a dish or a bottle at him for the first time. On the other hand, I have seen successful businessmen who have accepted years of cruelty from a sadistic wife with only mild protest.

There are those women that sue for divorce if the man so much as lays a hand upon them, while at the other extreme I have had cases where the woman received much corporal punishment consistently over a number of years and still remained contented, until some other act precipitated a petition of divorce.

The problems involved in the above situations are not too serious for the lawyer when there are no children involved. While

we do know that divorced people tend to be repeaters, most of us do not take too seriously a separation or divorce where there is no problem of child welfare. The difficult cases come in the area where there are one or more children of the marriage, or a former one. Here we are often faced with the problem of a family wrangle that had its beginning months and even years ago.

In divorce cases where there are children you usually find the client describing all of the shortcomings of the other mate. The recitation will usually include acts that go back as far as the period immediately after the honeymoon. You question the client and find out that despite these behavioral difficulties the couple managed to have three or four children, build a home, own a car, went places together, etc. Yet, the client facing you states that he or she wants a divorce.

It is my practice usually to go back to the days preceding the marriage to determine whether there is any hope of bringing about reconciliation of my client with the spouse. Often I find that the marriage began to have difficulties within a few months after the marriage occurred.

The difficulties are usually pretty widespread, and come from a number of problems arising from the different backgrounds and attitudes of the marriage partners. A few of the complaints are set forth here, and no claim is made that this list is completely conclusive. Some of our clients want a divorce because:

1. There is a lack of realization that in marriage there is a merger of two persons into a single entity. Very often one or both the partners continue to be very close to his or her family for years after the date of marriage. It is only natural that the in-laws of each partner tend to make suggestions which eventually come to the attention of the other mate. This tends to produce a conflict on both parties. It very often gets down to a tug of war between the families of each partner to the point of open warfare.
2. There is usually a lowering of living standards required to create a new family. Very often the wife feels this most keenly, because where she is a worker living at home she has little expense except her own needs. To be forced to live on a lower income, while at the same time paying installments on furniture, appliances, etc., is very often unacceptable. Many times it is the husband who cannot stand this lower standard of living. Both fail to realize that their parents did not have these economic luxuries in their early married life.
3. Alcoholism is a serious problem in divorce cases involving particularly lower socio-economic classes. That does not mean that the problem is confined there, but perhaps it is better concealed in the middle and upper

classes. The complete lack of adjustment of the individual to the part that he is to play in family responsibilities very often leads to a serious problem of excessive drinking. Some psychologists claim that this occurs where either the man or woman is too closely tied to his or her mother, with the alcoholic resorting to such measures to screen the fact that he is now emancipated from his family. Only too often we find this type of problem in the individual who simply has not been allowed by his family to grow up. When you pile the burden of married life on to such an immature individual, the strain is too great and alcoholism sometimes results.

4. There is lack of proper sexual information. Many marriages tend to become increasingly unsatisfactory if sexual adjustment is not reached. This activity is regarded by many marriage counselors as being the most acceptable means of tension reduction. When the act is not satisfactorily accomplished it may be seen that the tension would rather increase than decline. Much of this could be prevented if a more wholesome pre-marital information center could be established. Misinformation at the outset of the marriage very often leads to the formation of such rigid attitudes on the subject that by the time you and I as lawyers see the couple it is a very difficult task for anyone to correct the problem. I do not want to over-emphasize sexual relations as being the only important factor in divorce. Attitudes, good self-adjustment, etc., are equally important. However, recent investigations have shown that frequency and satisfaction in sexual relations is the best one single indicator of the degree of harmony in marriage. In other words, poor sexual relations is a barometer. If the relationships are poor we may be pretty certain that the marriage entity is in danger of destruction.
5. Jealousy is a factor long emphasized by the layman. If it is recognized that jealousy is a type of insecurity of the individual, it might be possible to regard jealousy as an important factor. Most of the individuals whom I have seen who are jealous of the mate are those who themselves are quite insecure in their approach to life. The fact that an individual is insecure is not of itself reason to discourage reconciliation. Many marriages are able to be successful where the people are insecure if they can be taught to lean heavily on the marriage relation for their security. It is simply a case of living with one's insecurity and adapting to it. It might also be said that those who are suspicious tend to fall within this rough classification.
6. The next problem is adultery. This is a very frequent cause that clients list as a reason for getting a divorce. Very often we find that even with frequent sexual relations within the marriage that one or the other

partner has transgressed our law. The man or woman who persists in a series of promiscuous relations has not yet reached a state of maturity needed for a close-knit family relationship. Amazing as it may seem, many promiscuous women are frigid in their approach to sexual relations. Many of such men, in turn, have problems of impotency in marriage and problems of latent homosexuality. Perhaps Freud has the most logical theory of personality which may be used to explain this problem.

Freud pointed out that before reaching the heterosexual level of maturity all humans go through several stages: the oral (breast as center of interest), anal (concentration on toilet training and its derivatives), phallic (homosexual), and the heterosexual. Stoppage of one's attitudes at any of these levels of behavior through severe shock in childhood produces an undue concentration of interest on a lower level without either party realizing it. The woman who has an undue concentration on the anal level may find problems of constipation continuing to plague her sexual life. The man who has an undue fixation in the phallic level may have problems of latent homosexuality, which tend to reduce his potency. Very often our clients do not see the problem as we might, and it is very difficult to persuade them to go to professionally qualified people to attempt to raise their level of behavior to a more heterosexual plane.

7. Selfishness is another very common problem. Here the individual has very often been deprived of understanding care during the early period of his life, and consistently seeks to satisfy his own needs at the expense of others. At Yale University this behavior was produced experimentally with lower animals and the selfishness persisted throughout the life span. The Freudians would have an explanation that the individual's libidinal forces (sex drive) were not properly restrained by his super-ego (conscience)—in other words, the individual did not learn to sufficiently control his desires early in life. This is the type of problem we have where the man insists upon having all of the luxuries to his own taste, while providing little sustenance for his family.

Now that we have pointed out a few common types of complaints given to the divorce lawyer by the client, let us attempt to categorize the problem of divorce where children are involved from another point of view. Since the court in this case has before it two major problems, I shall discuss divorce by arbitrarily dividing the discussion into these two classes: 1. The question of divorce, and 2. The question of custody of the children. These shall be discussed in the listed order.

1. THE QUESTION OF DIVORCE

We often say that an individual has an excellent personality and we wonder why he is seeking a divorce from his family. The question of defining what is a good personality for family living is a problem which is not yet completely solved. McKinnon says that personality may be divided into three levels:

- (a) The adjustment of the individual to himself and his capabilities;
- (b) The adjustment within the small group, such as the family;
- (c) The adjustment of the individual to society in general.

Divorce, which is an indication of a lack of adjustment within the small group, may come to an individual who is perfectly happy and adjusted unto himself. Also, divorce may come to the successful businessman whose friends all think that he has an extremely good personality in the community. Further, divorce may come to the man who lacks adjustment in all three of the above classes or some degree thereof.

If we take the time we can usually trace back to the man's early formation of attitudes and find the lack of understanding on the part of one or both parents. This lack of understanding very often leads to a rejection by the youngster of a close-knit family life. He himself may not realize it but it is a large factor in his own family relationships with his children and spouse. He may either completely dominate his family with kindness or with harshness in an effort to show a high degree of rejection of them by forcing them into behavior which unduly restricts the behavior of the family members. Or he may completely reject the family either for limited periods like a week-end, or permanently. Investigation shows that this very often occurs where family and community pressure has caused the man to marry while he secretly retains certain reservations with regard to how much he is going to enjoy family life.

There is a second type of rejection faced by the individual. This occurs in many families who thoroughly reject their children, by attempting to conceal it. The type of behavior in this situation is the typical "Momism" which some of our recent writers have stressed. Very often the woman, not desiring the pregnancy, seeks to hide from the world her distaste of her child by smothering it with kindness. In such cases we really have the parent rejecting the child, by allowing her guilt feeling to so sway her actions that she appears to be extremely fond of the youngster. We find that she is not truly fond of her child. In a situation of this type the child may succumb to this saccharine sweetness and become a mama's boy; or he may again completely reject such at-

tentions because of their sham. In either case the child will grow to be an individual for whom it is difficult to lead a good family life.

Then there is the problem of the individual who does not face life realistically. We all have certain capacities and limitations which are not only hereditary in nature but also limited by such environmental restrictions as unrealistic attitudes foisted upon us by our families, friends and other persons with whom we come in contact during early formative years. One environmental pressure which is worthy of singular comment is the tendency in our society to "hitch your wagon to a star." Very often this is completely out of touch with one's ability. In other words, one sets a goal that is too high for accomplishment and upon failure the individual tends to feel himself very unhappy. This unbridled yearning for "success" works fairly satisfactorily in a rapidly expanding country but works very poorly in a non-expanding society. Our society is gradually becoming more regimented, and less expansive so that we will be facing this problem for many years to come. Even where the individual is able to satisfy his utmost ambition in material things, this is usually accomplished at the expense of one's feeling of security. Whether it is frustration which results from failure or insecurity which results from a feeling of undeserved success—both of these, when added to a lack of adjustment in family living, makes one susceptible to a divorce problem.

The individual's inability to live in outside society very often is a factor in bringing on the divorce where the individual is well adjusted to himself, and to his family—but his personality simply is not sufficiently in tune with the attitudes of those around him. In this instance very often the man or woman simply can't make a go of the marriage financially. Also here we have the individual who changes jobs because of his inability to work in the outside world with a minimum of discomfort to himself and those around him in his industrial endeavors. Very often here we have the shy, withdrawn type of person who functions well in small groups but does poorly in contact with the world at large.

2. THE CUSTODY OF THE CHILDREN

The second major problem we are faced with is the custody of the children. The individual who has committed the act of aggression which brings about the divorce may or may not be the proper person for custody. The situations in which the Court finds itself very often are as follows:

- (a) The husband and the wife may work, with neither having sufficient time to devote to child raising.
- (b) Where the husband is employed at a mediocre job

and the wife is a housewife but resents every moment of the housework presented by her duties as homemaker.

(c) Where the wife works at a more successful job than the husband so that she is perhaps better able to take care of the financial needs of the family than the man.

(d) Where the parents, in view of previous behavior toward the children, are neither one fit to have custody.

(a) Let us discuss the first situation:

With the increasing of feminine employment to the extent that 20,000,000 women are employed in the United States, it is only natural that the court is often faced with the problem of having no parent who can devote full time to the child's welfare. Many parents feel that as soon as the child has reached six or seven years of age both parents may work so that the family may enjoy the material comforts of life. In this type of situation where the family has raised itself to a high standard of expectancy of the good things of life there is a probability that both parents will continue to work. Several methods may be used for the benefit of the children, one of these being to place the child in a day nursery while the mother or father with custody works at a job. Research at the Mooseheart Foundation indicates that if there is to be parental neglect it is desirable that the child be placed with a group of friendly youngsters rather than being foisted off on some adult who does not desire the care of the child.

The second solution to this problem would be to give the child over to a grandparent or some other adult while the custodial parent works. While this functions in theory it presents certain complications. First, if the grandparent or older person seeks to control the child, the age discrepancy between the child and the grandparent may act as a barrier to the point where the child will either be rigidly controlled or left to shift for himself. Secondly, the child has one "parent figure" during the day (grandparent) and another during the evening (custodial parent), both of them expecting different behavior from a "good child." This leads to an inconsistency in the child's environment which is somewhat questionable as to his proper development. The day nursery offered above seems the more realistic solution, leading to a better socialization of the child, and not resulting in two "parent figures" entering the child's life. Some may say that the person in charge at the day nursery is a "parent figure," but I take the position that the group pressure of the other children upon a young child is a far more potent factor than is the adult in charge.

(b) This is a serious dilemma for the Court.

With a mediocre job the husband can hardly afford to have his wife take care of the children as a sole occupation, particularly if a divorce is granted and two households are maintained. Where

a wife rejects housework to a violent degree we usually feel that there is a rejection of the feminine role by the wife, even though she may be capable of bearing children. A realistic solution to this may well be for the wife to assume a role that suits her a little better than that of homemaker, namely, a role of bread winner equal to that of the husband. Here may be the type of situation where the children would be better off in a foster home completely removed from the influences of a discontented, rejecting, mother and a financially unsuccessful father.

(c) Here again is the woman who rejects her role of maternity and seeks adequate compensation in an "emancipated world."

If our society were not so dead set against the mans' assuming the role of the homemaker, it might be more realistic if the man stayed home and took care of the children while the wife worked so that he would be standing beside the garden gate when she arrived home. However, this is a non-acceptable solution which is rarely available to the court. Therefore, a solution will entail guiding the mother to see that she is rejecting her children by her gaining success in other fields, pointing out to her that the role of homemaker can be the most satisfying of all professions. The role of cooperation with her husband in efficient management of the home is to be stressed. It is essential that she receive recognition for this from her husband and children. It is further necessary that she see that her urge for business success is a wedge which will force a divorce not only in this marriage but in her next one. If the divorce is actually granted there is a serious question in my mind whether the custody should be placed with the mother. Placement of custody with the father together with contributions by the mother toward child support might be realistic. This would involve placing the children, of course, in a day nursery during the father's work day; however, to place the children with the mother when she has such a highly aggressive urge for success— would lead to the discomfort and insecurity of the children.

Further, there are indications that the mother will spend less time with the children after work than will the father in this case, because of the outside activities which a successful business-woman must carry on in order to keep her own prestige in the industrial world.

(d) Here the court finds the mother and father morally unfit for the children.

With the publication of Kinsey's work in 1948¹ and the work

¹ KINSEY, *SEXUAL BEHAVIOR OF THE HUMAN MALE* (1948).

of Morris Ploscowe on sex and law,² perhaps our evaluation of some of these parents as being "morally unfit" requires revision to meet human behavior patterns. The basic principle, as I see it, is whether the acts of the parents are so offensive that they are completely outside the pale of acts done by the remainder of the population. Too often a father is denied custody because he has been seen in the company of another woman. The court is outraged and sometimes places the children with the mother even where she is temperamentally unfit for child raising. There have been cases where the court places the child with the father because the mother has been guilty of unconventional sexual contact such as oral genital relations with her own mate. Although such behavior is not accepted in some mores, and not completely in our own society, more careful scrutiny of each case of such unconventional behavior is needed. It is essential that each problem be approached without a preconceived notion on behalf of the court as to the harm done to our society by such behavior. Rather, the whole marriage relationship should be evaluated from the standpoint of the needs of each individual mate, taking into account the possible effect of such behavior upon the children of the marriage. The legislature has set up certain standards of behavior, but it is sincerely urged that the judges take into account all that the scientists have learned with regard to human behavior before taking an *a priori* position on the matter.

A more realistic position might be that where there is unconventional behavior by one party this should be considered *prima facie* evidence of moral unfitness, but should not be completely conclusive without careful examination of all the factors in the family matrix. There can be just as much "moral" unfitness in a man or woman who is operating on a high level of tension, as there can be in some unconventional act. Fitness to assume a child's custody all depends upon one's definition of the children's needs. Certainly the security and understanding of the child's problems should be paramount, and the behavior of the adults should always be considered in the light of what effect this will have upon the child. We know from Kinsey's report that there is a wide range of human behavior as it relates to sexual morality. Let us introduce the scientific knowledge of behavior as it relates to morality before we, or others, judge those who sit across the desk from us as divorce clients.

The Welfare of the Children:

While we all recognize that the problems of divorce and custody of the children are within the province of the court of domes-

² PLOSCOWE, *SEX AND THE LAW* (1951).

tic relations, too often the divorce precedes the actual settlement of the problem of the children. That does not mean that the judge fails to make inquiry into the provisions for the children. Rather, there is a tendency to regard the two as parallel actions which must be settled within a reasonable time after the divorce action is filed. Let us look at it from the child's point of view. The child's entire world is tied up in a man and a woman whom he knows as mother and father. The child's whole concept of its world is screened through the attitudes of these two people during the child's early life. He comes to accept these people as naturally living around him, just as you and I expect to see automobiles running on the streets of our cities. Even though there may be serious disagreement between the mother and father, the child very often knows no different type of behavior and accepts these arguments as part and parcel of these "strange people" who are his mother and father. The real crisis comes when there is a physical separation of the mother and father which entails the child being forced to live with one or the other. The child's feeling of security is severely challenged at this point. Studies have generally shown that young children prefer to be with their mothers, possibly because they are with her more than the father. However, the need of affection from the father is none the less real and many children feel the need of having both parents constantly around — which, of course, at the point of divorce is impossible.

It seems to me that the divorce should not be granted until some arrangement is made on behalf of both parents to restore that degree of security to the child by whole-heartedly cooperating in providing a good environment under the custody of one or the other parent, together with good visitation rights on behalf of the "non-custodial parent." It would seem to me highly advantageous that either parent who attempted to use the child as a pawn in securing an advantage of the other partner should be subject to contempt of court, and subject to severe penalties by the court. If the child felt less like a pawn, and felt that both parents were sincerely interested in his welfare — it would be my prediction that the incidents of maladjusted children would be reduced. Furthermore, our studies in industrial psychology on the matter of goals would indicate that parents who were forced by the court to take a cooperative attitude in the settlement of the children's problem before they themselves gained their goal of divorce — might well reach a realistic goal themselves on a more solid foundation than is now possible. This delay of the divorce proceedings would not be based upon a certain time period, but rather would be based upon a settlement of the children's problems prior to the final dissolution.

The problem of the divorce lawyer is like that of the captain of a foundering ship. If he orders his client into the lifeboats he may be committing them to a sea of uncertainty which may engulf them completely. If, however, he elects for his passenger to stay aboard the sinking ship, they have an equally threatening possibility of complete annihilation. If the lawyer obtains the divorce for a family with children he may be committing at least the wife and children to extreme unhappiness, insecurity, and problems of living that seem almost insurmountable. Since the courts grant only limited visitation rights, the man himself is financially paying for the pleasures of a family which he never gets to enjoy. Furthermore, it has been my experience that a majority of the problems in marriage appear to stem from the problems of child rearing. The mother, in the case of divorce, usually is granted the custody. However, during the visitation by the father with his children, the children often tell him of their progress. The court relies upon the individual father to file proper motions in the event that there is a gross mistreatment of the children. Since child training was probably one of the points of dispute before marriage, the divorce itself merely seeks to intensify the bitterness of the family, impairs their financial security — and, in short, means a continuance of the very problems of child rearing which helped precipitate the divorce.

None of us has a solution but for purposes of suggestion I submit the following proposals which may aid us:

(a) That there be a continuity of supervision in a divorce action. It would be excellent if each client would remain with the same attorney throughout the litigation; however, usually the same restlessness that brought on the divorce proceedings brings about a change of attorneys in mid stream. Many times the attorney gives very practical advice which tends to dislodge the attitudes of the client. If the advice is too severe for the client to take, he often changes lawyers, when the actual problem is for him to change his own attitude. In other words, we see the client running away from his own problem from lawyer to lawyer, seeking the Holy Grail in each parcel of advice.

(b) That the court set up a series of group therapy sessions (men separate from women) dealing with attitudes in marriage and in child rearing, supervised by employees of the court, trained in scientific psychological procedure. Non-attendance or non-cooperation on the part of either parent could be handled by judicial contempt of court.

(c) That no divorce case be dismissed until the permission of the court is obtained after a full hearing before an officer of the court. Too often a dropped divorce suit is followed by a series

of dismissed divorce suits between the same mates. It is like a running battle in which the exhausted combatants merely call a truce until they have built up their strength again to file another action.

(d) That each and every child be evaluated as to intelligence and personality deviations in an effort to bring about a healthy adjustment of the children and to cut down the divorce rate in the next generation. This could be tied in with an implementation program in the schools supervised by either a court worker trained in psychology, or the school psychologist.

(e) That no divorce be granted until a court referee has satisfied himself that all the members of the family have attempted to reach a position of maximum adjustment possible during this procedure.

(f) That the fact finding matters be divided from those functions of the court which are essentially judicial in nature. In other words, a referee might well be in a better position to accumulate the facts on the marital proceedings, with the ultimate decision remaining with the judge. This would mean the creation of a number of referees who would hear the matters and make recommendations. The present procedure of much of this fact finding being done by the social worker seems unrealistic because the social worker, while having adequate understanding of the emotional problems involved, is not familiar with the judicial procedure. The referee should be an attorney properly schooled in judicial techniques, holding his hearings in private but with a degree of ceremony. If we are going to maintain the procedure as being a judicial function, the prestige of the court must be properly maintained, and not be allowed to descend to the level of an informal conference. The layman expects a degree of austerity and prestige to emanate from the court. If we were able to combine this with a degree of understanding, there would be better acceptance of the judicial decrees.

(g) That all juveniles whose parents are parties to a divorce action report to an officer of the juvenile court until eighteen years of age, not with the thought of punishment, but with the thought of giving some outside supervisory guidance to the children involved.

The problem of divorce is becoming more serious as our cost of living rises, as our society becomes more complex, and as the number of ill-conceived marriages continues on the rise. Not until the State takes a definite stand in seeking to stem the flood of divorces by guiding the people into a path of self-analysis — only

then will we begin to lessen the divorce problem as it stands. Certainly no one lawyer can do more than contribute in a small way toward the problem. Perhaps the thoughts set down here may provoke some movement toward a more realistic approach to the problems of family living.