

SPEECHES
OF
JAMES BRYCE, D.C.L., M.P.,

(Regius Professor of Civil Law in the University of Oxford),

AND
HORACE DAVEY, Q.C., M.P.,

ON THE SECOND READING OF THE
INFANTS BILL.

DELIVERED
IN THE HOUSE OF COMMONS,
WEDNESDAY, MARCH 26, 1884.

EXTRACTED FROM
"HANSARD'S PARLIAMENTARY DEBATES,"
VOL. CCLXXXVI.

LONDON:
CORNELIUS BUCK, 22 PATERNOSTER ROW, E.C
1884.

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SPEECHES.

INFANTS BILL.—[BILL 14.]

(*Mr. Bryce, Mr. Davey, Mr. Anderson, Mr. Staveley Hill.*)

SECOND READING.

Order for Second Reading read.

MR. HOPWOOD, in moving that the Bill be now read the second time, said, that its terms had been carefully drafted.

MR. BRYCE, in seconding the Motion, said, the Bill which he had the honour of laying before the House dealt with a difficult and complicated question; but he hoped to be able to convince the House that its principles were sound. The old law of England, in dealing with the rights of parents over their children, started from the doctrine of the absolute supremacy of the husband and father; and, although that condition of things had been somewhat modified, there remained serious hardships, the law being still harsh and unjust to the claims of mothers. The Common Law considered husband and wife to be one; but it did so on the basis of giving the husband all that was his own and all that was his wife's, leaving her nothing, and that principle, which had been consistently applied as regarded the property, was also applied in the family, as regarded the respective rights of the parents to the custody, guardianship, and control of their children. The father was held to be sole guardian during his lifetime, and was entitled to the control of the child for all purposes, until it approached the age of majority. He could also, after his death, dictate the future custody of the child's person and its education, by his power of appointing a testamentary guardian, and the Courts of

Law adopted the principle that the child must be brought up in the religion to which the father belonged. The wife had no rights during the father's lifetime; and even after his death a testamentary guardian excluded her altogether from having any control over the person, or any share in the education, of her child. She had, moreover, no right, even when she survived the father, and no testamentary guardian had been appointed by him, of herself appointing a guardian by will. It was only in very extreme cases that the Courts of Law—it was till the passing of the Judicature Act the Court of Chancery—interfered for the protection of the children, and removed them from the custody of a father whose conduct was so flagrantly immoral, or otherwise prejudicial to the best interests of the child, that it seemed impossible to leave the child any longer under his guardianship. He ought to add that the preference which the law showed to the father was so great that even an agreement made before marriage as regarded the religion in which the child should be brought up was held to be null and unenforceable, as derogating from paternal rights which could not be forfeited by him. This state of things began by degrees to shock the advancing sentiments of mankind; and an Act was passed—the 2 & 3 *Vict.*—which gave to the mother certain rights as regarded a child under seven years of age. That Act was followed by another in 1873, extending the law still further. This Act, he believed, was brought in by the hon. Member for Cambridge Borough (Mr. W. Fowler), and he (Mr. Bryce) thought the country and the House were much indebted to him. The effect of the latter Act—36 *Vict.* c. 12—was to provide that it should be lawful for the High Court of Chancery, upon the petition of the mother, to order that she should have access to the infant at such times, and subject to such regulations, as the Court should deem proper; or that the infant should be delivered into her custody until it had reached 16 years of age, such custody being subject to certain regulations for the access of the father or guardian. The Act also did away with the ancient rule that the father could not divest himself of his right to the custody of the child by any agreement made on separation.

The law had remained on that footing since 1873, subject to the extensive and beneficial provisions in the Act of 1857—the Act which established the Court of Divorce and Matrimonial Causes. That Act gave a very large discretion indeed to that Court, in providing for the custody of children, whenever it pronounced a decree, and he did not propose in the Bill to interfere in any way with its jurisdiction, since it did not seem to him to require amendment or enlargement. But even after the passing of the Acts of 1857 and 1873, there still remained very serious hardships in the law. It still failed to recognize the claims of mothers, and in constantly preferring the father often produced injury to the child. In the first place, the mother, under the construction which the Courts had placed upon the Act of 1873, was usually excluded from the custody of her child, except when such grave misconduct could be made out against the father as might affect the child injuriously. Secondly, a guardian appointed by the father was the guardian of the child to the exclusion of the mother, and there was no provision for making the mother the guardian of her child on the death of the father. Even if the father had omitted to appoint a guardian, the mother did not hold that position, and the father could, out of spite, appoint a guardian who was hostile to the mother, although he might have neglected the child, and she be wholly without blame. Thirdly, when the mother survived the father, she could not appoint a guardian to take care of her child after her death, even when no guardian had been appointed by the father. He need not remind the House of the hardships which had occurred under this law, in which grave injustice and much mental suffering had been inflicted on mothers. Even Judges had remarked upon it as being partial and cruel, when mothers appealed to them, whom they found themselves unable to help. They disapproved and regretted the law, but it was none the less their duty to administer it. Some time ago there was a case of a lady of some eminence in the musical world, who had been obliged to separate from her husband on account of his cruelty. One night she was absent singing at a concert; and, when she returned, she found

that her two children had been carried off by her husband during her absence, and it was weeks before her agents succeeded in discovering the children, and the younger one, when found, had been so ill-cared for that its life was in danger. Again, there was a case not long ago in Scotland—and perhaps the Scottish law in this respect was even harsher than the English—where a young lady was so ill-treated by her husband that she had to leave him. Shortly afterwards she gave birth to a child, and when it was only three weeks old the husband carried it off, and she was unable to recover it. Another lady in Scotland, he believed, was compelled to escape from the jurisdiction of the Scotch Courts with her child, in order that her husband, from whom she had been separated, should not take the infant from her. Cases like these showed how much ground mothers had for invoking the aid of the House. The Bill might be regarded as a corollary to the Married Women's Property Act, which had an important bearing upon the subject. The principle of that Act was, that the husband and wife were to have equal rights in regard to property. It surely followed that the right of the wife to a share in the guardianship of her children—a right far more prized by women than any right of property—should also be recognized by the law. Indeed, without such a Bill as he now proposed, the Married Women's Property Act might be rendered null and void, as the power possessed by the husband, over the persons of his children, might enable him to compel a wife to bow to his will in all questions affecting property. The husband now possessed a terrible engine of oppression, which he could bring to bear upon the wife, and thus nullify the benevolent intentions of the Legislature. He had spoken chiefly of England and Ireland, but he believed that in these points the law of Scotland was substantially the same as that of England. There were similar powers vested in the Courts; but there was no Act in Scotland which corresponded to the English Act of 1873. So far as there was a difference, Scotch law was somewhat harsher than English; and the Scottish Courts seemed either to possess a narrower discretion than those of England, or to regard the rights of the

father with a still warmer favour. The Scotch Court of Session held that cruelty and brutality on the part of the husband were no reasons for taking the custody of the children from him, and giving them to the wife. They said that nothing less than the father's adultery was sufficient to set up such a claim for transference of the husband's rights, and one Judge had even declared that adultery might not always form a sufficient ground. He would now shortly explain the leading amendments which the Bill before the House would introduce into the law. The 2nd clause of the measure provided that the parents of an infant, during the continuance of their married life, should be the child's joint guardians. This provision was necessary in order to negative the presumption of the Courts in favour of the husband. It was only by laying down such a principle as that that we could get rid of the consequences of that old doctrine of the law which favoured the father at the expense of the mother. Nothing less appeared sufficient to give the Courts that full discretion which they ought to have, in order to guard the interests of the children in the first place, and, in the next, the interests of the parents as persons on a footing of equality. The 3rd clause provided that, on the death of either parent, the survivor should be the child's guardian. The 4th clause dealt with the question of guardianship, and laid down that the surviving parent might appoint a testamentary guardian, provided that the child were still unmarried at the time the power of the guardian was to take effect. Where no guardian had been appointed by the surviving parent, a guardian appointed by the parent first deceased would act. To both such guardians, however, would be preferred a guardian selected by the two parents jointly in their lifetime. It was further provided that where the child, on the death of the father, became entitled to any real or personal estate, the father, if he died first, might appoint a guardian for such estate; and the reason of this provision was that it might frequently happen that a woman, although she would be the best personal guardian of her child, might not be able to manage the business affairs of a large estate. This provision, however, would not interfere with the

mother's right of custody in regard to the infant's person. The 5th clause dealt with the case of parents living separately from one another, and the question arising of the control of the child or of its religious training; and this clause enacted that, on any such question arising, the Courts should have power to make such order as they thought fit regarding the custody or religion of the infant. This clause extended the discretion of the Court to infants over 16, thus going beyond the Act of 1873; and, taken in conjunction with Section 2, the clause very largely increased the power of the Court in regulating the custody of a child. According to the present law, the father was preferred to the mother in any question of guardianship, unless a strong case were made out against him. The Court would, however, under the Bill, regard both parents as equal, and endeavour, while thinking first of what was best for the child, to do full justice between the parents. The general effect of the Bill, therefore, was to place the father and mother on a footing of perfect equality as regarded the guardianship of the child, by extending the power of the Courts, and getting rid of the legal presumption in favour of the father. The discretion of the Court would be exercised with equity and fairness as between both parents. There would, of course, be nothing to prevent either parent from making the child a ward of Court; and, in fact, it would treat the natural guardians of the child as though they were merely testamentary guardians. He had thought it safer to introduce no special provisions as to religion, as questions of that kind could be safely left to be settled by the Courts when they arose; and the other clauses of the Bill did not call for special mention, inasmuch as they merely extended the operation of the measure to Scotland, and provided for saving the jurisdiction now exercised by the Courts. There was, however, an important question as to the Courts by whom the powers conferred by the Bill should be exercised. The Bill restricted them to the High Courts of Justice in England and Ireland, or any Division thereof, and to the Court of Session in Scotland. A strong case might, no doubt, be made out for giving jurisdiction to the Inferior Courts, since this would make the benefits of the Bill

more generally accessible to the poorer classes. It was not easy to say, however, to what Inferior Courts in England such jurisdiction could properly be intrusted. There was, however, a feeling in Scotland for giving them to the Sheriff Courts of that country, Courts which occupied a more important position than the Inferior Courts in England; and if hon. Members from Scotland wished to extend the jurisdiction to the Sheriff Courts, he would be inclined to give his assent to the proposition. Without attempting to anticipate all the objections that might be made to the measure, he would notice one or two. It might be said that the Bill ought to have enabled either parent to appoint a guardian to act on his or her behalf after such parent's death jointly with the surviving parent. On that point, he thought that the surviving parent was the proper guardian of the child, and that it might lead to much unpleasantness if a third person had power to interfere with the surviving parent in bringing up the child. Some might hold it a graver objection to the Bill that where two people lived together one must rule; that the father ought to be at the head and have control of his family, the wife yielding to him; and the usual illustration was given that if two people rode together one must ride behind. But his answer was that the old system of giving the husband supreme power over the child had not worked well in the past; and he believed that nothing could be more conducive to harmony than that husband and wife should be placed in a position of perfect equality before the law, the former recognizing and respecting the rights of the latter. When women had had the power over their children, they generally used that power well—as well, on the whole, as fathers did. So far from his proposal being likely to breed discord in families, he was sure it would improve the relations between husband and wife, by removing from him an engine of tyranny, and from her a motive for attaining her ends by indirect methods. It must be remembered that the provisions of this measure would only be needed where the parties did not agree. Where they lived together and loved one another, all would go smoothly; where affection had ceased, the Bill would apply the principles of

justice. He submitted this measure to the House as an attempt to deal on broad and simple principles with an admittedly difficult question—one which was among the most difficult any Reformer could touch. He recommended it on the ground that it conformed to the whole tendency of recent legislation, and that it protected women to a greater extent than had ever been done formerly. Nothing could be more harsh to women than the present law. In conclusion, he would appeal for support to hon. Members who remembered and acknowledged their obligations to the tender care and loving society of their mothers; to those who, as fathers, could realize what a loss it would be if their own children were deprived of the instruction and sympathy of a mother; and to all hon. Members, whatever their own personal experience or associations might be, he appealed to do justice to a class of persons not directly represented in the House. The Constitution had refused a seat in that House to women. It had also refused them the electoral franchise. There were many in that House, and he was one of them, who thought the Constitution was wisely framed when it made that refusal. But the refusal was made in the confidence that a Parliament of men, elected by men, would care for the interests and feelings of women not less than their own, and would protect those whose voices could not be raised within these walls. He trusted the House would recognize this sacred duty, and in proceeding to better secure the welfare of children would also grant to mothers those rights which they most valued, and in which their peace and happiness was most involved.

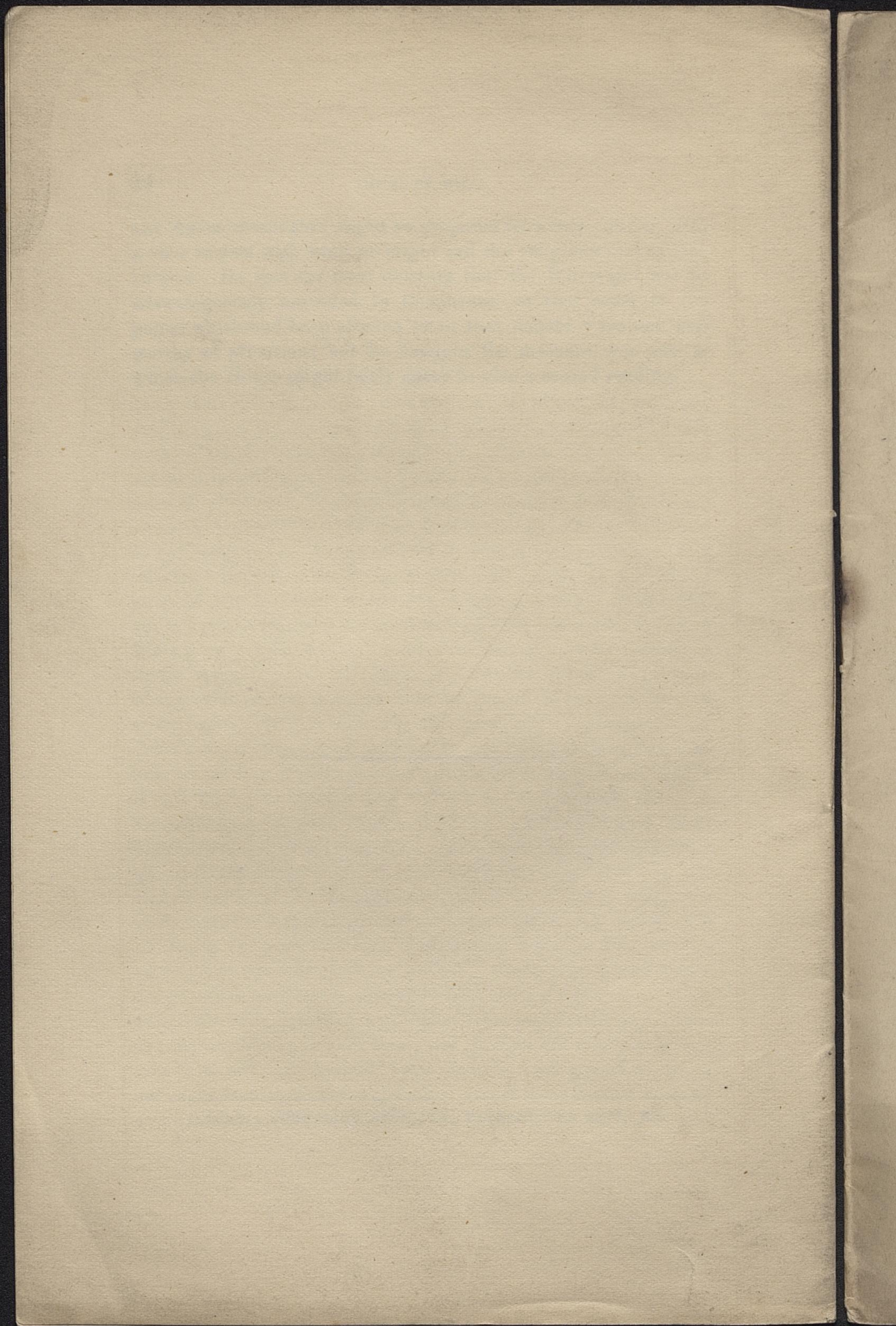
MR. HORACE DAVEY said, he thought the author of the Bill, the hon. and learned Member for the Tower Hamlets (Mr. Bryce), was to be congratulated on the reception which the Bill had met, because the measure had elicited a general admission that the present law required amendment. It had been the desire of the promoters of the Bill to prevent litigation between husband and wife; and, consequently, the right of application to the Courts was only given by the Bill in cases of acute dispute, where the differences were irreconcilable, and

had ended in the separation of the parties. It was asked who was to settle any differences between the joint guardians? They must settle it between themselves, doing what had to be done in the case of every partnership known to the law, for the law refused to interfere between partners whilst they continued to carry on business together, and so it should refuse to interfere between man and wife so long as they lived together. A little give-and-take must be employed, wherever business must be carried on; and, however high disputes might run, ultimately some *modus vivendi* was usually arrived at, and it would be the same with married people under the present Bill. They would know that they had to live together, just as partners knew that they had to carry on business together. One great objection was that this Bill would be a fertile source of disputes and quarrel in conjugal life. That he denied. If he had thought that such a result was likely, he would not have taken any part in advocating it; but he believed that what would take place would be exactly the contrary. The Bill would not create any disputes or differences of opinion; and he ventured to say that, where unhappily they did exist already, and were settled by the exercise of the husband's last resource, his legal power, it left behind it a sense of bitterness and injustice in the wife's breast that was not calculated to do good. But if the wife knew that there was a better chance of the dispute being ended by a give-and-take arrangement, however the dispute might be made up, it would not leave behind it that sense of bitterness and injustice of the law which so often rankled in the hearts of married women. There seemed to be an idea in the speeches of several hon. Members who had spoken against the Bill that the wife had nothing to do with the children—that she was, in fact, altogether an outsider in this matter; and one hon. Gentleman had said that the idea that the wife should necessarily be guardian, if the survivor, was shocking. He (Mr. Horace Davey) could see nothing shocking in the fact of a wife, who survived her husband, being the guardian of her own children. The question between the supporters and opponents of the Bill was not a question of prin-

ciple, but of degree; and he preferred his hon. and learned Friend's (Mr. Bryce's) way of remedying the defects of the existing law, which even the opponents of the Bill admitted. It was more scientific, and more in accordance with the principles of legislation, that a principle should be laid down, and the Courts left to work it out to its natural consequences. If disputes unhappily arose during the lifetime of both parents, and if they came before the Court, they had now to be settled entirely on the assumption that the father's right alone must necessarily prevail, unless he had committed some grave misconduct and in equity had forfeited that right. What they desired to get, by the 2nd clause of this Bill, was that, if any dispute came before the Courts, it should be decided, not upon any presumption of absolute legal right on the part of either parent, but solely on the consideration of the best interests of the children, without any presumption in favour of either parent. The hon. Member for Cambridge Borough (Mr. W. Fowler) had stated that he was in favour of preserving the natural conditions of husband and wife, and the supremacy of the husband. But they considered that the present law did not, as a matter of fact, adequately recognize the natural conditions, and the supporters of the Bill desired to bring the law into harmony with nature. Another element to be considered was who had the power of the purse-strings. In many instances, especially since the Married Women's Property Act, it was the wife who provided the ways and means; and, in such a case, it was hard that she should have no power. This 2nd clause was intended, not to introduce any new element of discord or litigation, but to lay down a principle to guide the Courts in case of litigation becoming necessary. By the 4th clause the husband might, by his will, appoint guardians to manage the estate for his children jointly with his wife. It had been said that there was a want of clearness about the 4th clause; but, if that was really the case, it could be considered and amended in Committee. In regard to the children of mixed marriages, it had been thought that, under the Bill as at present framed, the Court would have ample power

to decide questions as to which religion such children should be brought up in, with due regard to their own interest and the rights of both parents. It would be a pity to bind the Court absolutely to enforce contracts between the parents; but it would be better that it should have power to give effect wholly or partially to such contracts, or to decline doing so, the governing principle being the benefit of the infants. The hon. Member for Berkshire (Mr. Walter) had put a case of great difficulty, and it was one of great difficulty at the present time. Such cases had come under his (Mr. Horace Davey's) own observation, and they were among the most painful with which the Courts had to deal. A husband and wife, for example, were both Protestants. The husband died, leaving his wife surviving, and, having had confidence in her, he appointed her guardian of his infant children. The wife might turn a Roman Catholic. The Court, at present, under such circumstances, might be compelled to take away the children from the custody of the Roman Catholic mother. It had no option; because it had been decided that the father had an absolute right, without any regard whatever to the mother, to say in what religion his children should be brought up. The law said that the children were to be brought up in his religion. That was, he thought, a great hardship. Looking at it as a practical question, it seemed to him that the present state of the law was a great evil, and that it would be a less evil for the children to be brought up as Roman Catholics, by a Roman Catholic mother, than to deprive them of the mother's care, and have them brought up, it might be by strangers, in order to make them Protestants, with the chance that, when they came to years of discretion and rejoined their mother, the religious impressions they had received might be wiped out of their minds. He did not deny that the case put by the hon. Member for Berkshire was one of great hardship, which would require to be very carefully considered; but there was hardship under the existing law; and they ought, if possible, to avoid producing fresh grievances and hardships. His hon. and learned Friend (Mr. Bryce) and he would, however, when the Bill got into Committee, give the most careful consideration to

any Amendments that might be proposed from any quarter, with a view to deal with what he might call the religious part of that subject. He was far from denying that the Bill might not be advantageously amended in Committee, or that some of the points which had been alluded to in that debate were not well worthy of attention; but he thought the measure was one to which the House might fairly agree to give a second reading.



THE CUSTODY AND GUARDIANSHIP OF CHILDREN.

OPINIONS OF THE PRESS

ON THE LAW RELATING TO THE

CUSTODY AND GUARDIANSHIP
OF CHILDREN

AND ON THE

INFANTS BILL, 1884.

MANCHESTER: A. IRELAND AND CO., PRINTERS.
1884.

OPINIONS OF THE PRESS.

The "SCOTSMAN," Wednesday, March 5th, 1884.

It is a somewhat remarkable thing to find a Judge acknowledging, as the Lord Ordinary acknowledged during last week, that it is "with some regret" that he administers a law of the land. To the woman, who had been subjected to sufficient cruelty to entitle her to claim a decree of separation, who had been beaten by her husband and refused admittance to the house, and who stood by while her child was handed to the man who had ill-used her, it must have been a profound consolation to hear that the Judge made the order which deprived her of the child "with some regret." Translating the euphemism into extra-judicial language, we shall not be far wrong if instead of it we read, "The Court is, unhappily, aware that it is doing an injustice; but, as the law stands, it is powerless to do otherwise." That this interpretation is not too violent a rendering of the phrase is shown by the further admission of the Lord Ordinary, that had he possessed the same discretionary power which had been conferred upon Justices in England, he should have been inclined to exercise that power by giving the child to the custody of the mother. An admission such as this is an authoritative comment on the unsatisfactory nature of the existing law pertaining to the custody of children, upon the injustice of which we have already had occasion to lay stress. In the case which we then cited, the decision of the Court was to the effect that it was unnecessary to inquire into the truth of the wife's allegations of cruelty against the husband, since the law required that the child must be committed to his custody, whether the allegations were proved or disproved. In the present case, the allegations of cruelty were admitted to be proved, and decree of separation was pronounced, the father's claim to the child being, of course, pronounced valid notwithstanding the treatment of the wife. So far the case does not differ from a hundred others. Its striking feature lies in the concession by the Court that, although the mother had no legal claim to the child, yet from the point of view of common justice she had, not only a claim, but the superior claim. There is no need to repeat in detail the criticisms of this law which have already been placed before the public; it will be sufficient to indicate that the need of amendment still exists. Judging by the somewhat lethargic way in which men undertake reform, it would seem questionable if there are many who realise all that is implied in the mere existence of an unjust law. As a nation we are so accustomed to have the whole main-

tenance of morality ascribed to the inculcation of certain abstract religious and moral maxims, that the full practical force which is exercised in society by the legal code is continually lost sight of or underrated. Yet as a rule our moral propagandists confine themselves to generalities ; and it is the national legal code which, standing to the majority as a system of applied ethics, backed by very obvious sanctions, is more or less constantly referred to as the rule of life. With most minds it is a long way from a generality to a particular case ; and the specialised maxims of the law, constantly enforced by immediate and visible results, acquire an incalculable force for good or evil. A mistaken or unjust law is a threefold evil ; since besides the harm to those who are victimised by it, and the countenance it lends to further ill within its own sphere, it has an additional tendency to impair the claim of the whole legal code to be a moral standard for practical reference. In the present case the law admits the right of a man who, from jealousy, spleen, or mere wanton brutality, has driven his wife from her home, to retain possession of the children, who are not less hers than his. The admission of an inequality in the family so gross as to sanction conduct of this kind is a sufficiently dangerous principle for national guidance.

It is satisfactory, however, to find that there is at least a possibility that the present state of things will be remedied. Mr. Bryce's " Bill to amend the law relating to the guardianship and custody of children " has already been printed, and vigorous efforts are being made to promote its success. The fundamental principle of the Bill, as given in the second and third clauses, is that the parents of any infant shall, during the continuance of their marriage, be its joint guardians ; and that on the death of either, the guardianship shall rest with the survivor. As substituting an equality in guardianship for the inequality surviving from the *patria potestas*, this constitutes a distinct advance upon the present law, under which the mother has no right of guardianship unless by appointment of the father. The fourth clause, based upon the interminable terminology of a prior Act, is more complex in its statement. " The parents of any infant who is unmarried at the time of the death of the survivor of them may, by any deed executed by them, appoint a guardian or guardians for such infant after the death of the survivor of them ; and in default of such appointment, or in case such appointment shall not take effect, the survivor of such parents may, by deed or will, appoint a guardian or guardians for such infant ; and in default of such last-mentioned appointment, or in case the same shall not take effect, the guardian or guardians (if any) appointed by the will of the one of such parents who shall first die shall be guardian or guardians of such infant." It must be admitted that this clause, while it asserts the power of the mother to appoint a guardian, which is denied under the present Act, is by no means satisfactory, and is even inconsistent in some respects with the principle of joint-guardianship laid down in the second clause of the Bill. For in the case of parents in joint-guardianship, it is made necessary, in order that the will of each shall take assured effect in the delegation of future guardians, that there shall be agreement between

them in the execution of a joint-deed; at least, such appears to be the meaning of the phrase—"any deed executed by them." Supposing, however, in default of such agreement, that the father alone shall have drawn up a deed of appointment, then there is nothing in the terms of the Act to prevent the mother, in event of her being the survivor, entirely setting aside by a new deed the wishes of the father for the disposal of the children after her death. In the same way the father, if he survive, may nullify the deed of the mother. Not only that, but there is no provision made for cases in which the parents may have executed two independent deeds. In this case, also, the final appointment would rest wholly with the survivor; whereas if there is anything in the principle of joint-guardianship by the parents, the wishes of each have a claim to be equally regarded in the final disposal of the children. Each should be at liberty to appoint a guardian for the infant after the death of the survivor of them, whether the deed be drawn up jointly or independently; neither survivor being permitted to annul the deed of the parent deceased unless proof be led that such appointment is injurious to the best interests of the children. The fifth clause provides that where any question shall arise as to the custody of an infant whose parents are living separate from one another, or as to the religion in which it is to be brought up, the Court shall have power to make such order as it may think fit regarding the custody of such infant or the religion in which it is to be brought up. Taken in conjunction with the principle of admitted joint-guardianship, the discretionary power thus vested in the Court should enable cases such as those cited to be dealt with on the intrinsic merits of the respective claims put into Court, the interests of the children, however, having always to be primarily considered.

The two succeeding clauses of the Bill define the powers of the guardian as in accordance with the existing Act, and provide for the differences in national nomenclature by stating that, in the application of the Act to Scotland, the word "guardian" shall include tutors, and the word "infant" include pupils. There is, however, one point more in the Bill which is open to unfavourable comment—that pertaining to the meaning of the expression "the Court." It is defined to mean, in England, the High Court of Justice; in Ireland, the High Court of Justice; and in Scotland, the Court of Session. With regard to Scotland, the question as to the right of the Sheriff Courts to exercise jurisdiction in this class of cases under the present law has been more than once discussed, and it is certainly desirable that the difficulty should once for all be set at rest. But in 1878, in a note on the case *Buchanan v. Buchanan*, Sheriff-Substitute Spens pointed out that to hold that the Court of Session is the only tribunal before which an action between the parents for the custody of a child could be brought, was practically to exclude to many poor people the determination of a class of cases which might be a matter of supreme importance to them. He argued that the Sheriff Court has jurisdiction under the present law to deal with the custody of children, citing cases in which the Sheriff's action had been held competent, and arguing the matter in regard to certain technical objections urged against the right of the Sheriff Courts. Upon the discussion as to the present

jurisdiction of these Courts we cannot enter ; that such jurisdiction has been claimed for them, and not unsuccessfully, is a point in favour of their recognition in the future. It is surely desirable, in the event of the adoption of an amended Act, *that the means for the attainment of decisions in such cases should be brought within reach of the poor. There is something fatally wrong in a system which denies justice to those who have not the means of litigating in the higher Court.* Mr. Bryce's Bill, therefore, is not in its details all that could be wished, but it is a considerable step in the right direction. Whether in its present form it be passed or not, it is at least certain that the existing law must not be permitted much longer to stain the statute-book.

"GLASGOW NEWS," March 27th, 1884.

THE CUSTODY OF CHILDREN.

It is characteristic of the present condition of the House of Commons that the most useful Bills before the House are not the work of the Government, but of private members. The Wednesday sitting, therefore, promises to produce more valuable legislation than the nights monopolised by the Government ; and of this, yesterday's work is an admirable example. The Bill introduced by Mr. Bryce to amend the law relating to the custody of children transcends in importance the majority of the measures put before the House, both because it grapples with an evil almost beyond reach of the Legislature, and because it amends a social anomaly which in England, and especially in Scotland, has for long been a source of cruelty and injustice. As the law at present stands in both countries, the supremacy of the husband is legally recognised. In England there are several restrictions, but in Scotland the rights of the wife are totally ignored. The law which gives to the husband the absolute and unquestioned guardianship is open to comment in all cases, but in the event of a matrimonial dispute or separation the monopoly is iniquitous. It is a matter of sincere regret that the Bill which passed a second reading yesterday does not apply to Scotland, but its ready adoption by the House paves the way for some Scotch member, who may possess some influence with the House, and have sufficient enterprise to rise above the pettifogging subjects with which the Scotch Liberals usually busy themselves. An amendment of the Scotch law would be a great benefaction, and its necessity is even more pressing with us than it is in England. By the law which Mr. Bryce's Bill seeks to amend the mother is excluded from the custody of children unless in a case of grave misconduct be proven against the father. No provision exists for making the mother guardian of her children after the death of the father, and the widow cannot on her own death appoint a guardian, even though no guardian had been appointed by the father.

The essential principle of Mr. Bryce's Bill is that it recognises the equality of the parents. The movement which has been earnestly advocated for many years to obtain State recognition of the equality of the sexes has now achieved one of its most triumphant successes. The mother as well as the father has naturally an inalienable right of guardianship over her children,

and it is something wholly repugnant to modern conceptions of the due fulfilment of responsibilities that till now in England, and still continuing in Scotland, the father alone should be regarded in the eye of the law as the person entitled to regulate the upbringing of children. In principle and in fact the training of the mother is in nine cases out of ten the foundation of character, and to allow this to continue not only ignored, but denied, is an anomaly whose abolition we gladly recognise in Mr. Bryce's measure. The Bill provides that the parents shall in the eyes of the law be joint-guardians. On the death of either the survivor shall be guardian, and on death can appoint a guardian, though preference shall be given to a guardian appointed by both jointly in their lifetime. When parents live apart, the Court shall have power to make an order either as to custody or as to religion. We are wholly opposed to State regulation of private affairs, or interference with social matters whose adjudication is beyond the reach of a general rule, *but the Bill adopted last night stops at the point past which legislation would become a burden. It puts the father and mother on a position of legal equality, equal to that which they actually hold in civilisation.* The relic of barbarism prevailing in Scotland by which the exploded theory of lord and master against inferior and drudge is maintained, continues as a legal fiction or assumption what does not in reality exist. The progress of education, the development of successive generations of civilised training, and the social recognition of sexual equality in almost every sphere have led to a condition of things in which the actual condition is a marked advancement upon legal status. So long as a wife was merely a household drudge, and her work was that of servitude, the supremacy of the physically stronger was unquestioned. The age of physical supremacy, however, is past, and with it we would bury its characteristics. Foremost among these relics we would place the enactments which deny to the mother what in nature, and nowadays in fact, she possesses.

Mr. Bryce's Bill is not perfect, and we accept no more of it as satisfactory *but its main principle—the recognition of equality.* As a practical solution of a social difficulty it fails, as must all attempts to cure evils beyond the reach of the law. The dual control which it recognises has existed ever since women became possessed of individual opinions, and we need not fear that the legal acknowledgment of woman's right to an opinion will lead to its more emphatic announcement. The Bill has also been objected to for the reason that it will be a fruitful cause of quarrel, and, in fact, will be a perpetual creator of domestic disagreement. It is true that it now gives weight to the opposing opinions, and even gives greater facilities for their production to public gaze; but this is more than compensated for by the fact that it gives authority and importance to an opinion which hitherto has been dogmatically silenced by assertion of legal right. In the matter of the training of children a mother is as able as a father to judge between right and wrong, and should the Courts be more frequently appealed to, the litigation will have the beneficial effect of finally disposing of what otherwise might continue as a domestic volcano. The measure, however, is less important in its relation to joint-

guardianship than it is in the matter of matrimonial separation. No regulation regarding the custody of children can be framed which would justly apply to all cases in which husband and wife seek to obtain a separation. Each case must be dealt with on its own merits, and the only just provision which can be made is that the Courts have power to make an order. It is the only way out of a difficulty for which there can be no general law. The particular circumstances must be considered judiciously, and the reasons on both sides are supplied by the evidence for rule of separation. As to the facetious side of the question, on which several speakers touched in yesterday's debate, the recognition of woman's equality is not likely to affect aspirants for matrimony in the manner dwelt upon, and, in truth, no deterrent yet conceived has shown itself sufficient to give preliminary calculations even a modicum of influence.

TO THE EDITOR OF THE "GLASGOW NEWS."

Sir,—Your leader on this subject errs in stating that Mr. Bryce's "Infants Bill" does not apply to Scotland. Fortunately, it has been found possible to include the requisite clauses, and the gravity of the Scottish case has been so fully admitted in the debate that the iniquitous operation of the Scottish law in cases of separation can hardly escape reform, whatever fate may befall the Bill as a whole in Committee. Thanks are due to you for your clear insistence that the principle of joint-guardianship—of equality—is essential to the measure. The critics of the measure who so cheaply start objections will probably find on thinking out the whole question that the recognition of equality is a logical and, what is more to the point, a legal necessity. In deciding a question of custody, obviously a general rule cannot be laid down. The Court must have discretionary power to meet the varying circumstances of disordered homes. But the exercise of this discretionary power, as the numerous cases on record show, is simply make-believe when only one of the parents has a legal status. The right of the father is in fact the most important element in the case before the judge. How, indeed, can conflicting claims be adjusted with any pretence of equity when right is confronted with no-right? Manifestly, as a starting point for a fair judgment, there must be an admitted equality of status on the part of the contending parents. The dual control, as you properly point out, is not a new thing, and the harmony of family life is not menaced by conferring on the mother a legal right which could only serve her in cases of threatened or actual rupture of the home. Lesser differences must be frankly admitted to lie beyond the scope of legal remedies; they can only be dealt with by compromise, which is the law of family life.—I am, &c.

T. CARLAW MARTIN.

6, Marchmont Road, Edinburgh, March 27th, 1884.

"NORTH BRITISH DAILY MAIL," March 1st, 1884.

THE CUSTODY OF INFANTS.

A short Bill has been introduced this session into the House of Commons, backed by Mr. Bryce, Mr. Davey, Mr. George Anderson, and Mr.

Stavely Hill, which promises to remove a blot in the existing law affecting the guardianship and custody of infant children. The partial and one-sided character of the law as it stands on this subject is well known ; it has been illustrated from time to time by many painful cases in our Law Courts, in which a mother has been deprived of the care and custody of infant children at an age and under circumstances which shocked every sense of propriety and of justice. Under a pretence of being guided solely by considerations affecting the interest of the child, our Courts of Law have over and over again pronounced in favour of an interpretation of the law which, so far as the wife and mother was concerned, was almost as bad as slavery itself ; and it is to remedy this evil that the Bill now before us has been introduced into Parliament. The Married Women's Property Act redressed a grievous wrong of this same kind, so far as the material interests of a wife are concerned ; and this Bill, which proposes to amend the law relating to the guardianship and custody of infants, may be looked upon in the light of a sequel to it in so far as it proposes to extend the same principle to her moral and social claims. It proposes simply to place both parents of a child on precisely the same terms of equality with respect to the guardianship of their children. During the continuance of their marriage they are to be recognised as joint guardians, and at the death of either the survivor will act in that capacity. The parents of any infant, or the survivor of them, it is proposed shall be empowered to appoint a guardian or guardians by deed ; and should any infant, on the death of its father before the death of its mother, become entitled to any real or personal estate, the mother shall be entitled to act as joint guardian. Finally, when any question shall arise as to the custody of an infant whose parents are living separate from one another, or as to the religion in which it is to be brought up, the Court, under the proposed Bill, is to have full power to make such order as it may think fit both with respect to the custody of the child and as to the religion in which it is to be brought up. The Bill, when it becomes law, will enable the High Courts of Justice in England and Ireland, and the Court of Session in Scotland, to decide some painful cases which come before them more in accordance with the dictates of justice and common-sense than they have hitherto had the power to do ; and we cordially hope that the promoters of the measure will be successful in getting it enrolled on the statute book. This is no party question ; and but for the senseless obstruction which is offered to all legislation by the Warton and the Biggars of the House of Commons, we should suppose that the Bill will meet with cordial approval in the House of Commons.

" WEEKLY DISPATCH," March 30th, 1884.

. . . With the large majority of people the promoters of a Bill like that of Mr. Bryce's find their principal difficulty in explaining how bad the existing law is. A just-minded man finds it very hard to believe that in a free country and in the nineteenth century a widowed mother may be robbed of her young children, even if they are babies in arms, by some

stranger appointed guardian by her late husband against her desire, or by her late husband's distant relative, whom perhaps she has never before seen. When men speak with approval of the humane legislation which has made it possible for a woman quickly and inexpensively to obtain judicial separation if she lives in physical fear of a violent and unprincipled husband, they do not understand that in all but a very few of the worst cases the man can set the law at defiance by threatening his wife that if she goes she shall be separated from her children. In hundreds of unhappy cases where, in consequence of drink and vice, the home has become the scene of continual misery, most unfit as a place in which to bring up young children, the poor mother would gladly support her family by the labour of her own hands if she were permitted to do so in peace. But the law which declares the father to be sole guardian gives her a cruel choice between bearing the degradation of remaining with him or securing in selfish solitude, at the price of her children's welfare, comparative happiness for herself. The best women in such cases nearly always elect to stay with their children, and thereby cruel hardship is inflicted.

"PALL MALL GAZETTE," April 1st, 1884.

BABIES IN PARLIAMENT.

TO THE EDITOR OF THE "PALL MALL GAZETTE."

Sir,—In your comments yesterday on the debate on the Infants Bill which took place in the House of Commons last Wednesday you remark that the most important point in Mr. Bryce's proposal is to give to widowed mothers rights over their children jointly with any guardian appointed by the father. In making this assertion you surely underrate the extent of the proposed reform. Mr. Bryce tries to lay down in his Bill a general principle of equality by which parents under all ordinary circumstances shall share jointly in the control of their children. He proposes to change the law by which all children born in marriage now belong solely to the father, and by which the father has sole power to direct their education, determine their religion, and fix their place of residence at any age, irrespective of the wishes of the mother. The only case where the relationship between the child and the mother living under her husband's roof is recognised by existing law is where it declares that the mother shall, if necessary, support, out of her separate property or earnings, those children over whom the law denies her all control. From the tone of the debate, however, I fear it is in vain to expect any measure of equal justice to women. In cases of separation between the parents members were willing to admit that the Scotch law at least should be amended; but it seemed the general masculine opinion that as long as the parents lived under the marriage roof every child, from the grown-up maiden to the newly-born infant, should belong by law to the father alone. Only on the death of the father did the House seem willing to recognise the right of the mother, and the debate turned mainly on the question whether the living mother ought to have equal or inferior rights to any guardian appointed by the dead father. Mr. Bryce declared his willingness to give way on all essential points, and

it was on the understanding that the father should continue to enjoy sole rights during his life and equal rights with the mother after his death that the Government supported and carried the second reading of the Bill. Unless, however, among the large majority voting for the measure there were many prepared to go much further than the Government proposal, Mr. Bryce's Bill will certainly not result in what you are pleased to call "an act of full, if tardy, justice to women." As a wife and mother, I most strongly protest, not only against the present state of the law, but against the re-enactment of its worst principle by the present House of Commons. It seems to me that the right of the married woman to her children should no longer be ignored by law. If a joint guardianship is impracticable, if one parent must be preferred, surely humanity and nature alike point to the mother as the protector of children in early childhood. There is a strange anomaly in a Parliament of men alone settling this question, and in awarding to themselves with fulsome phrases of self-praise, all power over the children whom women bear in toil and suffering. Do you think it is to be expected that the mothers of this country will long be satisfied with their position as unpaid nurses to their husband's children? So far from stifling the demand for political rights on the part of women, the debate on Mr. Bryce's Bill will only intensify it.—I am, Sir, your obedient servant,

ELIZABETH BRIGHT.

"BAZAAR," *March 19th, 1884.*

GUARDIANSHIP OF CHILDREN.

On the 11th inst. Mrs. Hoggan, M.D., lectured at the Somerville Club on "The mother's position in relation to the custody and guardianship of children in its legal and scientific aspect." The learned lecturer pointed out the changed position of the mother in the family, laying ancient literature and philology under contribution to prove that in past times mothers were treated more justly and enjoyed a worthier recognition of their rights than they do now. Mrs. Hoggan declared that amongst European nations motherhood stood lowest (legally) in England. Even a Turkish mother has a legal status as a mother, whereas Baron Bramwell declared that in this country "a mother's rights are nil!" Here, in every case where man and woman are bound together by marriage, the children of that marriage belong solely to the father. He alone has power to direct their education, decide in what religion they shall be brought up, and what shall be their place of residence. To him belong their earnings, and he can apprentice them to any trade without the consent of their mother. Even in their infancy he can remove them from her, and, at his death, he can separate her from them, ordering that they shall pass into the guardianship of whom he pleases. Her rights are absolutely nothing as against the testamentary guardians. In the case, *Talbot v. Shrewsbury*, Lord Cottenham thus stated the law: "When this case was before me in the autumn I had considerable reason to believe that there was much misapprehension in the mind of the mother as to her rights as mother, and I thought it necessary to explain that in point of law she had no right to

control the power of the testamentary guardian. It is proper that mothers should know that they have no right, as such, to interfere with guardians." Mrs. Hoggan quoted the eloquent and pathetic words in which the ill-starred Mrs. Norton deplored her unmerited separation from her little children, pointing out that if such bitter injustice is not oftener done it is only because men are generally so much better than the laws they have made. Mrs. Hoggan described the old-fashioned "scientific" view of the mother, which made her merely "the nurse of her children," and showed the more important position which modern science assigns to the maternal function. Several ladies well known in the literary and artistic world spoke in support of the resolutions condemning the existing laws affecting maternity, and some gentlemen followed, quoting the opinions of Lord Cairns, Lord Bramwell, the Master of the Rolls, and other distinguished judges, on the injustice inflicted on mothers by the present condition of those laws, which they could not administer without doing violence to their manhood.

Petitions to both Houses of Parliament, in support of Mr. Bryce's Bill to Amend the Laws regulating the Custody and Guardianship of Children, were voted by the meeting. Mrs. Symes Thompson presided.

"MANCHESTER GUARDIAN," March 29th, 1884.

The Infants' Guardians Bill has been read a second time by the overwhelming majority of 135 in a House of 281. The principle at the base of the Bill was hardly disputed by anyone, and it may now be taken as having been triumphantly affirmed. It is needless again to expose the gross hardships and injustice of the existing law, under which the father, living or dead, has absolute power over the children, and their mother is without any vestige of authority, and may be displaced by any stranger as a guardian. As we have before pointed out, the Married Women's Property Act, 1882, did a great deal more than simply protect the wife's separate property. It gave her a distinct legal existence and a clearly-defined legal status. For the future a married woman cannot be contemptuously classed as a person unknown to the law save as an appanage of her husband. The logical result of this change is that the wife should take her rightful place as a parent having equal authority with her husband in the guardianship of their children. This principle is contained in that clause of the Bill which makes the father and mother joint guardians of their children during their lives and gives the guardianship of infants to the survivor. It is said that this joint authority will lead to endless litigation. We believe, on the contrary, that the laying down of this just and clear principle will prevent litigation; but when disputes do arise they can be decided by a court of law, as they have to be even under the present system. That the survivor should have the right of guardianship can hardly be disputed if the theory of equal rights be once admitted. The Bill will doubtless be improved as to details in Committee, but we may look upon it already as another step taken along the path of equity and progress.

"*MANCHESTER EXAMINER*," March 28th, 1884.

Mr. Bryce's Bill to amend the law regarding the custody of infants evoked an unusual expression of approval of its object in the House of Commons. All the criticisms related to its details; the signal majority of 208 over 73, and the prevailing unanimity on both sides as to its principle, were evidences that Mr. Bryce has with him the mass of approving opinion in his attempt to redress a grievance which is opposed to public sentiment, and is severely cruel in its operation. The old principle of English law was to invest the father with the supreme right to the guardianship of his offspring. The rigidity of the old rule of law which ignored the mother's interest in her children has been relaxed in regard to infants under the age of seven. But the presumption in favour of the father in cases of older children has been very slightly modified, and the natural claims of mothers have not only been refused, but in two recent cases the refusal has been made by the law courts under circumstances of particular harshness. The Agar-Ellis case will be in memory. The other was that of a child born a few months before her Roman Catholic father's death, and brought up by her Protestant mother until she was eight or nine years old, when some of her father's relatives claimed to be appointed her guardians. The court had no help for it; the mother must be bereft, and the representatives of the father take the child. Mr. Bryce pointed out further that where children have been in this way handed over to the father the mother may be denied access to them, unless it is proved he is not a fit person to be the guardian. If the father died and appointed no guardian, she did not become the guardian. If the father appointed a guardian, that person inherited the husband's rights, and the mother had none. No words that were used in the discussion were too strong to describe this system of legalised cruelty and injustice. Mr. Bryce and Mr. Horace Davey ask Parliament to declare that both parents shall have an equal right to the guardianship of their infants, the survivor to remain the legal guardian, and in the event of there being no joint appointment for the continuance of the guardianship, on the death of the surviving parent, his or her legal representative would take the trust. The machinery by which these objects are to be attained is somewhat complicated. It may be defective, as the Lord Advocate remarked. But those are fair matters for discussion in Committee, now that victory on the principle of equality of both parents has been gained.

"*LIVERPOOL MERCURY*," March 29th, 1884.

. . . Now, if we knew language sufficiently strong to denounce such a condition of what is termed law in this country, we would certainly employ it. But we do not. It would be a libel upon savages to say it is a law fit for them. It is simply a relic of the old evil times when women were regarded as the slaves of men. There is no divine right of paternity in a child as opposed to the claim of the mother. *The basis of the Bill at present before Parliament is the only just foundation of law in the matter, namely, that the claim of either parent shall be recognised as originally on an*

equal footing, with a possibility of forfeiture on the side of the husband as much as on the side of the wife. To say that a father has sacred rights in his children, and that the mother has none, is not equity, but iniquity. In the great majority of the cases which come before the courts, the parents are separated in consequence of cruelty, varying in degree from harsh language to bodily maltreatment, alleged or proved to have been committed by the husband on the wife. The custody of the children, however, is given to the father, the result being that, after the breaking up of her home from no fault of hers, the mother has further to suffer the loss of her children. This may be, and probably is, a survival of the *patria potestas* of the Roman law, under which the other members of the family had no rights of their own, all being merged in the powers of the husband and father; but it is one of the blessings of Christianity that woman, as wife and mother, is recognised as occupying a position which heathen systems never acknowledged. The sooner, therefore, the Bill of Mr. Bryce, M.P., passes into an Act of the British Parliament, the better will it be for our consistency in the sense of the religion we profess, as well as the laws of civilisation by which we say that we desire to guide our national concerns.

"NORTHERN WHIG," Belfast, March 27th, 1884.

The principal clauses of the Bill which was before the House of Commons yesterday provide that the parents of any infant shall during the continuance of their marriage be its joint guardians, and that on the death of either of the parents of an infant the survivor shall be its guardian. Another clause provides that the parents may by any deed appoint a guardian or guardians of the infant to act as such after the death of the survivor of the parents, and that, in default of such appointment, the surviving parent may by deed or will appoint a guardian or guardians. The word "infant" must, of course, be taken to mean a child under age. It will be seen that the effect of the measure would be, as Mr. Bryce remarked, *to place the father and the mother in a position of equality.* How this absolute equality would affect the general position of the father as the head of the family is a point that will have to be carefully considered. But *the simple principle, though it may need some safeguard to prevent its misapplication, is one that must commend itself to all thoughtful persons.* Mr. Gibson's objection to the Bill was that, if it became law, disputes between husband and wife as to the bringing up of the children would have to be settled in the case of a poor household by a police summons, and in the case of a rich household by a Chancery suit. The Lord Advocate, speaking on behalf of the Government, said there could be no occasion for giving a joint guardianship to the husband and wife while they were living together, but the law should be altered where they were living separately, either voluntarily or under judicial authority. It is provided by the Bill that, in case of dispute, when parents are living separately, the Court shall have power to make such order as it may think fit as to the custody or religion of the infant. The Government gave their support to the second reading, the Lord Advocate explaining that

they did not do this because they considered the Bill perfect, but because they considered it would afford the means of remedying the admitted defects of the existing law. No doubt the measure will be modified in Committee, but we trust *that its general principle will be fully accepted, and embodied in the law of the land.*

“*SUSSEX DAILY NEWS*,” March 29th, 1884.

THE INFANTS BILL.

Mr. Bryce's Infants Bill has been read a second time by a large majority, in spite of the protests of some lawyers who are strongly opposed to change of any kind in legal procedure, and of Mr. Warton, who denounced the Bill as impious. All that Mr. Bryce proposes is that mothers shall have greater control than they have at present over the guardianship of their children. As the law now stands, all the authority in this matter belongs to the husband. His claim cannot be vitiated by his misconduct. . . . Of course, there are all manner of predictions as to the confusion the new system will create in households. Husbands and wives who are now happy and peaceful will be plunged into discord. But all these evil omens were as liberally lavished on the Married Women's Property Act. Of that Act Mr. Bryce's Bill is a natural consequence. The whole course of legislation in these matters is directed to increase the power and privileges of married women. This is very terrible to Mr. Warton, who solemnly informed the House that it was laid down in Holy Scriptures as the law of God, that the husband should be supreme over the wife. Mr. Warton further announced that the best wives always acknowledged the supremacy of their husbands. So, for a wife to have a will of her own where her children or her property are concerned is a sign of depravity. There was a time, no doubt, when this idea was accepted as a Divine institution; but civilisation has made some progress since then, though Mr. Warton is still stranded amongst the fossils.

“*NOTTINGHAM DAILY EXPRESS*,” March 27th, 1884.

To Mr. Bryce, the learned member for the Tower Hamlets, a very different reception was given. Mr. Bryce, with the support of Mr. Horace Davey and other lawyers, introduced a Bill to amend the law relating to the guardianship of “infants” in such a way as to give the mother equal rights with her husband. The Bill was aptly described by its author as a corollary of the Married Women's Property Act, and a measure required to complete that legislation; since so long as a mother's rights in her children were unprotected she would be at the mercy of whomsoever had control of them. There was a fine blending of dry law and tender feeling in the support some of the lawyers gave to the Bill. No one very heartily opposed it. Among the 208 who formed the majority were many members of the Government and numerous Conservatives, and there were also several Liberals among the seventy-three who composed the minority.

"*BRADFORD OBSERVER*," March 27th, 1884.

Amidst the waste of time and the war of words one Bill of utmost usefulness and importance has obtained a second reading in the House of Commons. This measure deals with the custody of children, and, if the condition of the law which makes it necessary is not one of the most crying evils of the day, such quiescence is, as has been said, a "tribute to the general goodness of domestic life among us." But, when there does come a jar in the home, what is the result? The wife finds that she has no rights whatever in regard to her children; they are at the absolute disposal of the husband. Not only so, but this exclusive power does not even depart with the life of him who wields it; he may transfer the custody of the children to guardians, leaving to the widow the mockery of a right in the shape of permission to visit them on stated occasions. Nor is even this the worst that can be urged against the existing law. Most of the provisions of statute law can in these days be circumvented by contract, providing the instrument satisfies the general requirements. But it has been decided in several cases that an indubitable contract between husband and wife as to the custody and religious training of the children is void as against the law which gives sole power to the husband and his trustees. It is unnecessary to point out what cruel and scandalous affairs are possible under such a system; unfortunately they are by no means confined to the realm of the contingent. The Bill which passed its second reading yesterday seeks to remove this great wrong by the following provisions. During lifetime parents are to be joint guardians of the children, and on the death of either the survivor becomes sole guardian. Both parents, however, may appoint a guardian, to assume power on the death of the surviving parent. If this is not done the surviving parent alone has the same right of appointment. Where question arises through the separation of the parents, the Court may determine the custody and religious training. The Bill appears to contain the true principles of a solution of the difficulty; and it is to be hoped it will be perfected in Committee.

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CUSTODY
AND
GUARDIANSHIP OF CHILDREN
(SCOTLAND).

PREPARED BY

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EDINBURGH:

PRINTED BY TURNBULL & SPEARS, 16 THISTLE STREET.

MDCCCLXXXV.

Prefatory Note.

THE Infants' Bill, introduced by Mr Bryce, M.P., the object of which was to remedy the iniquitous operation of the law as exhibited in the following pages, by readjusting the legal position of the mother in the family, and establishing by law the claims of the children of a married pair to the guardianship of both parents, has now been before Parliament for two sessions.

The second reading in the House of Commons was carried in March 1884, by 208 votes to 73, but the abuse of the forms of the House by two or three obstructives delayed its further progress till the end of July, when it passed, with some important modifications, through its final stages; too late, however, for serious consideration by the House of Lords before the close of the session.

In the Autumn Session, the *Infants' Bill* was introduced in the House of Lords in the form in which it left the House of Commons. The second reading was agreed to without a division, and the Bill was then referred to a Select Committee, by whom early in the present year it was reported to the House with very slight alterations. Repeated important divisions were taken on the later stages, but the Bill was reaffirmed by decisive majorities and sent down to the Commons on the 1st of May 1885.

The same obstructive forces which defeated the Bill in 1884 were again set in motion with such effect as to delay the second reading till August 3rd, or, rather, till the morning of August 4th, when, at 5 A.M., after the House had been sitting thirteen hours, 54 votes were given for the Bill to 17 against it. The "block" was, however, at once put on again, and no further stage of the Bill was allowed to be taken. The three gentlemen chiefly responsible for the maintenance, in opposition to the wish of large majorities of both Houses of Parliament, of the unjust and cruel law which the *Infants' Bill* sought to amend, are Mr INCE, Mr ONSLOW, and Mr WARTON.

The promoters of this measure now earnestly urge upon the electors the duty of bringing the subject before the country, and before parliamentary candidates in such a way as to make it impossible that a measure of this grave social importance shall be left by the new Parliament at the mercy of a few wilful obstructives.

THE CUSTODY AND GUARDIANSHIP OF CHILDREN.

[SCOTLAND.]

FROM time to time petitions are heard in the Court of Session for the custody of pupil children. In the majority of cases the parents are separated in consequence of cruelty, varying in degree from harsh language to physical maltreatment, alleged or proved to have been committed by the father on the mother. The practice of the Court is nevertheless to give the custody of the children to the father; so that after the breaking up of the home from no fault of hers, the mother has further to suffer the loss of her children.

The explanation of decisions so harsh as to shock the least developed sense of justice, is found in the unfortunate condition of the law of Scotland, and in the disinclination of the Court to break through a weighty chain of precedent.

Powers of the Court at Common Law.

In his work on *Parent and Child*,¹ Lord Fraser thus states the common law: 'The father is entitled to the custody of the child, and may remove it from place to place and from one country to another. The particular house of residence he thinks it should occupy he may point out; and it may be either his own or a separate establishment. He can recover its person from any one who retains it, although the person guilty of detention should be its own mother.'

This will be recognised as a survival of the *patria potestas* of the Roman law, under which the subject members of the family, whether wife or children, had, broadly speaking, no rights of their own, all being merged in the powers of the husband and father. It is necessary, however, to check this statement of the common law by judicial interpretation. Lord Ardmillan has said: 'The law of Scotland has not, in my opinion, adopted in its stern and inflexible severity the Roman law in regard to the *patria potestas*. It is one of the blessings of Christianity that woman, as wife and mother, is recognised as occupying a position which heathen systems never acknowledged. Accordingly I believe that the law of Scotland gives to the rights and even to the feelings of a wife and mother a degree of consideration and of protection quite unknown to the law of Rome. The general

¹ Fraser, 'Parent and Child,' 68.

rule in regard to the custody of children is beyond all doubt. The legal right to the custody of a lawful child is in the father ; and a court of law will enforce that right by the appropriate compulsitors. But that right is not absolute. It is not beyond the control of the law. It is within the power and duty of a court of justice, and more particularly of this Court, which is a Court both of law and equity, to mitigate in the exercise of a cautious discretion the severity of the general rule by interposing in exceptional cases. The exceptions must be few, and must rest on clear grounds ; and these grounds must be found in consideration of danger to the life, health, or morals of the child.' ¹

Statutory Powers.

The discretionary power claimed by Lord Ardmillan as inherent in the common law—thanks to Christianity and the practice of law and equity—has been confirmed by statute.

In the Conjugal Rights (Scotland) Amendment Act, 1861, Section ix., it is laid down : 'In any action for separation *a mensâ et thoro*, or for divorce, the Court may from time to time make such interim orders, and may, in the final decree, make such provision as to it shall seem just and proper, with respect to the custody, maintenance, and education of any pupil children of the marriage to which such action relates.' The Scotch judges are, however, jealous of their common law powers, and do not admit that the statute has enlarged the power of the Court. Thus, in the case of *Lang*,² Lord Benholme says : 'I cannot hold that under the statute law we have any wider or more extensive powers than we have at common law. On the other hand I do not think that our statutory powers are more limited than our common law powers. My impression is, that under the statute we can just do incidentally what, under our *nobile officium*, we can do under a separate application, and that the same principles must guide us in whatever form we act.

Decisions of Court of Session.

We have now to enquire how the Court has used the power conferred by statute, to make 'just and proper' provision ; how it has used the 'large discretionary power' possessed under the common law.

The case which is repeatedly quoted as having accurately defined the law is that of *Lang v. Lang*, where the husband was convicted of 'grossly abusing and maltreating' the wife, who obtained a decree of judicial separation and aliment. The cruelty was thus commented upon in the Note to the judgment : 'The Lord Ordinary cannot but feel that the conduct of the defender to his wife, as proved in evidence, was on many occasions such as no person in her position could be bound to submit to. A blow might

¹ 1869. 7, Macph., 1124.

² 1869. 7, Macph., 447.

be pardoned if given in sudden heat and without premeditation. But, as the evidence strikes the Lord Ordinary, there is proof of a considerable course and amount of actual maltreatment, accompanied by conduct of that contumelious and overbearing character, which more than a sudden blow in passion is calculated deeply to wound the feelings of the pursuer, or of any other female of ordinary sensibility.¹

Afterwards Mrs Lang presented a petition, in which she set forth that her two youngest children, aged seven and five respectively, were living with her, but that her husband refused to aliment them, and that she had reason to apprehend that he would take them from her custody. She restated the facts as to the cruelty upon which the decree of separation and aliment was granted, and argued that her husband's habits rendered him an unfit custodier of the two children. The Court refused her petition for the reasons set forth by Lord Benholme, 'that our common law justifies our interference with a father's right to the custody of his pupil children, only when it can be shown that the children's health, life, or morals will be endangered by their remaining in their father's custody.' Lord Neaves concurred and said: 'A man may be driven, under provocation it may be, to excesses of conduct against his wife which are quite unjustifiable, and which will entitle her to separation; but these will not necessarily take from him his right to have the charge of his children. . . . It is not that he has committed faults, but that he teaches, or is likely to teach, evil to them, and to corrupt their morals, that can alone entitle us to interfere.'²

Similarly, in the case of *Steuart v. Steuart*,³ a wife obtained a decree of judicial separation on the grounds of her husband's cruelty. The Lord Ordinary held that it was sufficiently proved that the husband had committed a violent assault, and inflicted serious injury upon his wife by repeated blows of the clenched fist. Further, that it was abundantly established that for several years preceding and down to the date of the assault, the husband's conduct was violent and unreasonable, accompanied by offensive names, oaths, and repeated threats of personal violence. Lord Deas was careful to exonerate the wife from all blame for the disordered home. He said: 'I have carefully examined the evidence, to ascertain if there is any foundation for the defence of provocation, but so far from that being established, I think it very remarkable that throughout the whole proof there is nothing to show that the pursuer ever lost her temper towards the defender or addressed him in unkind or unbecoming language. Her conduct throughout appears to have been unimpeachable.' The mother claimed the custody of two out of five children of the marriage. The Lord Ordinary (Gifford), after affirming the decision in the case of *Lang*,

¹ 1868. 6, Scottish Law Reporter, 20.

² 1869. 7, Macph., 447.

³ 1870. 8, Macph., 829.

proceeded to say: 'Under the Conjugal Rights Act, however, the Lord Ordinary in the present decree is entitled to provide for the custody of the pupil children. The youngest child of the marriage, a girl, is only four years old. It seems right that the pursuer, who is not to blame for the present separation, should have the custody of this child, but the Lord Ordinary does not feel warranted in going further. The next child is a boy, aged eleven; the others are above puberty, the eldest being major. No sufficient grounds have been established for interfering with the custody and education of these children.' This moderate use of the discretionary power was overruled by the Supreme Court. Lord Deas claimed very large discretionary powers for the Court, but held that no danger to the health or morals of the child had been urged as a reason for withholding it from the father, who might not be the best possible guardian for the child, but was the natural and legal guardian. 'The effect,' he says, 'of removing this child from the defender's custody would be to deprive it of the society of its brothers and sisters, and I know of no authority, nor do I see any sufficient reason for placing it under the mother's care merely because it is in pupilarity.' Lord Ardmillan disclaimed that the law recognises 'in all its severity the *patria potestas* of the Roman law,' but adhered to the rule as set forth in the case of *Lang*, and Lord Kinloch and the Lord President Inglis concurred.

Three further cases may be cited to show the consistency of the decisions. The first is that of *Lilley v. Lilley*.¹ This was a petition by a father for the custody of his child, which was eight months old. The mother lodged answers in which she stated that she was obliged to leave her husband's house, owing to his cruelty and unkindness shortly before the birth of the child. She averred that it would be most detrimental to the child's health and comfort to remove it from her charge and place it in alien hands; moreover she had not done anything to forfeit the right of a mother to minister to the wants of her infant. The Court, without inquiry, ordered the child to be given up to the father.

The next case is *Bloe v. Bloe*.² Here again the father, who admitted that he had treated his wife with some unkindness, petitioned for the custody of a child seven months old. The mother averred that the petitioner had treated her with great cruelty, both before and after the birth of the child, and in particular had struck her on several occasions with his fist; that he had insisted on her leaving the house, and had acquiesced in her removal of the child. The petition was allowed to stand over till the Summer Session, the child not having been weaned. On further hearing, judgment was thus given by the Lord President: 'The custody must be given to the father unless the mother shows that the health or morals of the child would be placed in peril by its being in the custody of the father.' Lords Deas, Mure, and Shand concurred.

¹ 1877. 4, Rennie, 397.

² 1882. 9, Rennie, 894.

We find the decision in the cases of *Lang*, *Lilley*, and *Bloe* conclusively reaffirmed in an order of the Court, given on 10th November 1883.¹ On that date the Lord President said in answer to a petition of a mother (who was living apart from her husband) to be permitted to retain her infant, born after the separation: "I find nothing but allegations of cruelty, following on threats and bad language; and even supposing that these are proved, and that decree of separation is granted upon the ground of that cruelty, it seems clear upon authority, and especially having regard to the case of *Lang*, that that decree would not be a good answer to a petition by the father for custody of the child. I think, therefore that this motion must be refused, for otherwise it would imply a departure from the course followed in previous petitions.' Lord Shand said: 'I think the petitioner has failed to distinguish this case from the cases of *Bloe*, *Lilley*, and *Lang*. . . . We could not refuse this petition unless we were to go back upon the cases which have been decided, and throw doubt upon the decision in the case of *Lang*, which I am not prepared to do.' Lord Deas and Lord Mure concurred.

Extreme Consideration for the Father.

The law is abundantly illustrated by these citations, and no doubt can exist as to the fate of any petition that may hereafter be presented. Nowhere in these decisions can be discovered the exercise of that discretionary power which the Court possesses, both under the common law and under the statute. It is equally impossible to discern that consideration for the rights and feelings of a wife and mother which Lord Ardmillan effusively states our law gives, thereby rising superior to heathen systems. On the other hand there is a manifest bowing to the *patria potestas*, accompanied with pharisaic professions that its severity is mercifully toned down. 'It is very difficult,' says Mr Campbell Lorimer,² 'to believe that the principles laid down in these judgments are consistent with "a large discretionary power," vested in the Court, in virtue of the *nobile officium*, which allows it to administer justice without the restraints of narrow technical rules. Some of the judges, as if conscious that the discretion so strongly claimed but so sparingly exercised would resemble the application of an iron rule, lavish a sentimental tenderness on the feelings of the violent husband. Thus at the same time that they deal out such scrimp measure to the injured wife, Lord Neaves exclaims: "How often has the presence and society of a child been the means of preventing a father from going wrong, or of reclaiming him after he has gone wrong?" and he remarks that such is doubtless a part of the purpose of Providence in constituting our family relations. "If we take a man's children from him, we leave him a solitary being, and deprive him of the most powerful inducement to

¹ 1883. 21, Scottish Law Reporter, 80.

² 1872. 16, Journal of Jurisprudence 225.

amendment of life." Lord Justice-Clerk Paton expressly accorded in the sentiment. Lord Ardmillan also said, "To leave his wife with the defender were to subject him to an influence exciting and tempting him to violence towards her" (a wife, observe, whose conduct was declared unimpeachable throughout), and then his Lordship proceeded, "To leave his child in his house is, or may well be, to introduce a soothing influence, to cheer the darkness of his lot, and bring out the better part of his nature," and on the strength, among other things, of this peradventure, his Lordship refused to the mother the custody of the girl of four, the removal of whom he admitted would be a great distress to her.'

Decisions in cases of Adultery.

The decisions hitherto quoted relate to cases in which (a) the parents were living apart without sufficient reason in law; or (b) where decree of judicial separation and aliment had been granted in consequence of the violence or intemperance of the father. In no case was there any attempt to prove injury to the child's health or morals, and adultery was only alleged against the father in one case, that of *Lang*. When the home has been violated by the proved adultery of the father, the decisions of the Court have taken a different complexion. In the case of *Ketchen v. Ketchen*,¹ a husband who had been divorced for adultery committed under aggravated circumstances petitioned for the custody of his child, a girl, aged four. The Lord-Justice-Clerk Moncreiff admitted that the father's right to the custody of his children may be admitted in strong, or even in hard or harsh cases against the mother, but adulterous intercourse, threats and imputations of a most discreditable character having been proved against the father, his claim stood in a very different position. The facts were conclusive of the father's unfitness to receive the custody of the child. As to the mother's right the Lord-Justice-Clerk said: 'I take it that no greater calamity could befall a child of tender years than that it should be taken from its mother. Nothing will make up, especially to a girl, for the want of a mother's care. For my own part, I have no doubt of the power and duty of the Court to take this element into consideration; and it would be putting the father's power much too high to overlook it.' This opinion, containing perhaps the fullest recognition on record, that the child's interests, which the Court professes alone to consider, are bound up in a mother's care, was not endorsed by Lord Neaves. After remarking that the principle on which cases like the present are to be decided is correctly laid down in the case of *Lang*, Lord Neaves said: 'We are to ask ourselves will the child be injured? Now I do not think that the injury which a child sustains by losing its mother is sufficient to justify us in keeping it from the father,' and he only concurred in the judgment because the father's offence was an aggravated case of adultery.

¹ 1870. 8, Macph., 952.

A second illustrative case is that of *Symington v. Symington*.¹ In an action of separation and aliment at the instance of the wife, it was proved that the husband had committed adultery with his children's nurse, and had also falsely accused the wife of intemperate habits and untruthfulness, and threatened to bring up his children in the belief of these falsehoods. The Court held that the wife, besides obtaining decree of separation, was entitled to the custody of all the five children—the eldest being ten years of age, and the youngest three and a half years. Lord Deas, in concurring with the judgment, laid most stress on the fact that the threatened 'poisoning of the minds of the children against their mother would be a calamity to the children.' This case was, however, the subject of prolonged litigation, the father having removed the children to America, where he was pursued in the Courts by the mother. Finally it was taken to the House of Lords,² with the result that the English judges only affirmed the decision of the Court of Session as regards the custody of the two youngest female children. The charges against the wife were admitted to be unfounded, and no doubt was entertained of the husband's guilt; but there was a tendency to the same absurd sentimentality over the husband's feelings and situation that has been remarked upon in the case of *Lang*. Indeed Lord O'Hagan expressly adopted the words of Lord Neaves, characterising them as 'sensible and just.' Three leading considerations seem to have weighed with the House of Lords—(a) that the motives of the husband were capable of a more lenient construction than the Court of Session admitted; (b) the likelihood of the children being a means of a reunion of husband and wife; (c) the value to the children of the father's control, and of his care for their material interests.

Accordingly the custody of the sons was given to the father, and the case referred to the Court of Session to make directions for access.

In Divorce.

In regard to the powers of the father after divorce, Lord Fraser states:³ 'Here the general rule of law, that the father is the legal custodier of the children, holds, even when he is the guilty party; for although he has broken the vow of conjugal fidelity to his wife, it does not follow that he will wrongously discharge his parental duties to his children.' Lord Fraser at the same time admits that the practice of the Lords Ordinary is to award the custody to the innocent husband or wife. From opinions expressed in the case of *Ketchen*, however, it is clear that the right of the father may triumph over the fact of adultery. Thus, Lord Cowan regarded adultery as an important circumstance requiring explanation but not conclusive against a father's claim. Lord Benholme observed: 'I am not pre-

¹ 1874. 1, *Rettie*, 871.

² 1875. 2, *Rettie*, 41.

³ Fraser, 'Parent and Child,' 73.

pared to say that in every case where adultery and nothing else is proved the Court must deny the father the custody. I can imagine a case where the father's conduct after the divorce would prevent the Court from applying such a rule.' And Lord Neaves was more emphatic, saying: 'I cannot lay it down as a general rule that the mere fact of his being divorced for adultery forfeits a man's right to have the custody of his children. There may be innumerable cases where it would be most unjust to enforce such a rule.' Divorce, therefore, which in Scotland may be granted for a single act of adultery, not condoned, at any distance of time, does not necessarily remove the children from the custody of the guilty father. To effect this the grounds of divorce must be adulterous intercourse of an aggravated nature, as in the case of *Ketchen*.

While a divorce action is pending the husband is entitled to the custody of the child; although the Court may interfere in the child's interest.

In Illegitimacy.

When the paternity of an illegitimate child is denied, the woman may bring an action for aliment against the alleged father; and in this action a proof is allowed her that the defender is the father of the child. Her claim cannot be barred by any offer on the part of the father to take the child into his own keeping. The law gives the mother the custody; however, after the child has reached a certain age, the father may insist upon having the custody, as a condition of giving further aliment, but he never becomes entitled to appoint a guardian. Lord Fraser lays it down that 'there is no invariable period during which the Court will compel the father to pay aliment, and therefore every question as to the time that he may demand custody must be regulated by circumstances. In some cases he may do so at a very early age, if his object be to teach it a trade or to put it in a position for acquiring a subsistence. It has been held that a mother is entitled to the custody of daughters until they are ten years of age and of sons until they are seven or ten; although in peculiar cases, as where the father has denied paternity, the period may be extended to twelve or fourteen, or the custody may be refused altogether.¹ In the cases of *Grant v. Yuill*² a denial of paternity did not however, stand in the way of the father's claim. Here the illegitimate child was a girl aged ten. The father, who at one time denied on oath the paternity, and only paid aliment under decree, afterwards judicially admitted the paternity, and offered, in an action for continued aliment, to take the child and place her with his sister, a widow, resident on a farm in the country. The father was unmarried. It was held by the Court that he was entitled to the custody of the child, and that his offer to place her with his sister was reasonable under the circumstances. As the child was not living with her mother, although legally under her custody, it cannot be argued that any special hardship was inflicted. Probably the Court would

¹ Fraser, 'Parent and Child,' 129. ² 1872. 10, Macph., 511.

have ruled otherwise had it been possible to show that the daughter's society was of importance to the mother. But denial of paternity at one time is apparently no reason at another time why a father should be excluded from his rights under the law, which, as stated by Lord Benholme, is 'that after the child has attained a certain age, the father is entitled to say, I can relieve myself of the expenses of aliment either by taking the child myself, or by making some other arrangement for its maintenance and education.'

The mother, nevertheless, is stringently bound to support her illegitimate child if the father fails to aliment.

Duration of the power of the Father.

It has been held that the father's power over the *person* of the child, or his right to direct and superintend his education, or to compel him to live in the father's family and contribute his earnings to the support of the household, is entirely at an end at the age of fourteen if a male, or twelve if a female. In short, when the period of pupilarity is past.¹ After pupilarity the father's authority is admitted to be so much weakened that it may be easily lost, and the children then in minority may claim to be heard in Court as to their further education, residence, &c. During minority the father is curator, with right of administering the property of his children, though cases may arise in which the Court will allow the minors to choose another curator.

Power of the Father to appoint Guardians.

The law grants to the father the power to nominate a tutor for his child, this tutor to act either during the father's lifetime or after his death. Should the father have appointed in his testament that the child shall be placed with any one, this nominee will be preferred to the custody over any other claimant, even the mother, unless the child be in infancy. It is the duty and right of the father's nominee to direct the education of the child, and to deal with his interests in accordance with the father's testamentary instructions and the pupil's position in life.²

Where there is no express provision to the contrary, it has been held (*Borthwick v. Dundas*) that a mother is entitled to the custody of children under seven years of age, while the sole direction of their education remains with the tutors nominated by the father.³

Where the father has failed to appoint a tutor, the nearest male relation through the father becomes the tutor-at-law, subject to the judicial control of the Court. Failing him, the Court of Session may appoint a tutor-dative. An unmarried woman may be nominated tutor by the father; she is also eligible as curator: no woman can be tutor-at law.

The mother has no right of guardianship unless by appointment of the father, nor has she any power to appoint a guardian.

¹ Fraser, 'Parent and Child,' 65.

² *Ibid.*, 213.

³ 1848. 8 D., 318.

Summary.

The practice of the Court may thus be summarised :—

(a) Where the child is legitimate the custody is given to the father.

(b) Where the child is illegitimate the mother is entitled to its custody until the age of seven if a male ; until the age of ten if a female.

(c) The father of a legitimate child may resign his paternal power of guardianship to the mother or other party not disqualified ; and he may appoint a guardian to act after his death, with powers equal to his own.

How the Father's Right may be Forfeited.

The clearest ground of interference with the father's power is held to be cruelty to the children.

Generally, the possible causes of forfeiture may be said to be —(a) unusual habits of drinking coupled with acts of violence ; (b) adultery and grossly immoral conduct. But the misconduct must be held to be injurious or likely to prove injurious to the health and morals of the children. This it is for the Court of Session to decide ; and a perusal of the foregoing decisions will have conveyed some idea of the extent of iniquity and ferocity permitted to the father before he is deemed to be an unfit custodian. A further cause (c) is where the Court is satisfied that the government of the father is calculated to engender irreligious or atheistical opinions.¹ Cases resting upon religious differences, so frequent in England, are, however, of rare occurrence in Scotland.

The Position of the Mother.

In the normal condition of the home the fact that the mother has no legal part in the custody of her children does not obtain prominence. Where the home is disordered, although not broken up, the father's exclusive power may be, and often is, put to tyrannic use. But even where married life has been fairly harmonious, the mother may, after the father's death, be deprived of all share in the education, upbringing, and society of her children.

When there has been an absolute rupture of home life, the unoffending mother having been driven to live apart, and to earn, it may be, an independent livelihood, she must set the law in motion if she desires her children's society. Unless she is prepared to sue for judicial separation on the grounds of cruelty, the Court will dismiss her petition without inquiry. Presuming she has all the legal means of proof necessary to obtain judicial separation, the Court will still refuse her the custody of her children if the father's offence be nothing graver than intemperance and violence, and these

¹ Fraser, 'Parent and Child,' 77.

exhibited in maltreatment of herself, not of the children. That the Court would rule in her favour could it be proved that the father was inculcating atheistical doctrine is likely, but there is an absence of cases.

The mother is thus doubly injured in her tenderest feelings—first, by the husband's intolerable violation of the home; second, by the law which ignores the natural rights of motherhood. And it is an aggravation of the injury that the law, so wholly deaf to her claims, is not an unfavourable statute law, binding the Court to a hard-and-fast decision, but a law conferring a great discretionary power—a power, moreover, which the Court is as eager to claim as it is loath to exercise. The mother's privileges are summed up in giving birth to the child; in weaning it; and in supporting it when the father fails. The first the law cannot help; the second the law acknowledges; the third the law enforces.

It is not surprising that a slave law should occasionally be treated in the spirit of the slave. Rather than abandon her child, Mrs Bloe fled with it beyond the jurisdiction of the Court, incurring judicial displeasure, but doubtless earning the applause of friends to the right.¹

The Mother's Right of Access.

Unless there are special disqualifying circumstances, the Court admits the mother's right of access to children in the custody of the father, and endeavours to arrange such conditions of access as will best satisfy both parties. In the cases of *Lilley* and *Bloe* it was directed that the child should be sent to the mother's residence one day in each week from 11 A.M. to 6 P.M., and that the mother should be entitled to visit it at such times as she might choose at the father's residence. In another case² the father was ordered to send the child to the mother in the Royal Hotel, Princes Street, Edinburgh, on a visit to her once a week on any day she may select, to remain with her from 11 A.M. to 6 P.M.; the mother also to be entitled to visit the child in the father's house—the father not to be present—at any time she may desire.

The right of access to children placed under a tutor by express request of the father has also been granted by the Court.³

If the mother is divorced for adultery the practice of the English Courts would probably be followed, and all access denied to her. Scotch cases are wanting, but this view is authoritatively stated.

These concessions to the mother probably go as far as the Court dare, with any regard to logic. At the best they imply an outrage of womanly dignity and of maternal feeling. The new and delicate form of torture has been devised for her of possessing her infant for part of one day in the week, or of entering as an alien the home which should be hers but for a husband's misconduct. The many

¹ 1882. 9, Rennie, 894.

² 1883. 21, Scottish Law Reporter, 80.

³ Allan. 41, J., 617.

forms in which the misfortune of her position is pressed upon her feelings cannot be imagined; but not the least painful must be the consciousness that her relation to the child is less intimate than that of some neutral person; that her own flesh and blood treats her as a stranger, and will possibly be taught to hold her in disesteem.

Further, even this partial satisfaction may be ended by the removal of the child to another part of the country, when to obtain her rights she must again employ the tedious and expensive machinery of the law.

Expenses.

The mother, whether as petitioner or respondent, has generally had to bear her own costs.

A point not less important is the apportionment of the expenses of access. In one of the cases referred to,¹ the mother, who was residing in Glasgow, was held bound to defray the whole expenses incidental to the visits to her child in Edinburgh. Satisfaction of the maternal instinct thus means such an expenditure of money as would in many cases simply defeat the intention of the Court.

The Interests of the Child.

The Court professes to regard the interests of the child as the paramount consideration, but it has always looked at these interests in connection with the supposed rights of the father. Two monstrous assumptions have thus crept into the decisions.

In the first place, the Court assumes, because the contrary is not proved, that the father has discharged his obligations to his children. Thus in the case of *Lang*, Lord-Justice-Clerk Patton said: 'We must take it for granted that the respondent has done his duty by his children hitherto.' Yet the grossness of the father's conduct was characterised in severe terms by the Court, and among other charges against him were fits of intemperance culminating in *delirium tremens*, requiring a male nurse. To assume that the duties of fatherhood had been performed is surely to subordinate common sense to legal sense.

Following naturally from this is the second assumption, that a husband who is so wholly wanting in moral government, even in ordinary restraint and self-respect, as to physically maltreat the mother of his children, is not on that account likely to endanger the life and morals of the children unreservedly entrusted to him. Only in a Court of law, where judgment is biased by unrighteous precedent could such a proposition be seriously made.

A further confusion is observable in such language as that of Lord Neaves, quoted on page 7, with reference to the beneficial effect of a child upon a father prone to the use of the clenched fist. That a child may have a salutary influence on the worst of parents is happily true; but to employ this in argument is to make a complete change from the standpoint of the child's interests to that of the

¹ 1883. 21 Scottish Law Reporter, 80.

already too well-considered father. Certainly it is not for the interests of a child of tender years that it should be used as an instrument in the reform of a partially brutalised father.

Against these considerations may be set the following :—

- (a) It is for the interests of the child to enjoy the care and to respond to the affection of one parent equally with the other.
- (b) If in a violated home the trusts of parentage are discharged, the presumption is that the parent whose conduct is unimpeached has discharged them.
- (c) The further presumption is that this dutiful parent will prove the fitter custodier for the children when the home is broken up.
- (d) For young children and for girls, the mother is the natural custodier.

Principles for an Amended Law.

1. That the interests of the child should be considered with reference to the special circumstances of the misconduct which has led to separation, and with reference to the general character of both parents, whose claims to the custody of the child are admitted to be originally on an equal footing. These claims may, at the discretion of the Court, be held to have been forfeited by one parent, or by both parents; and the right of access after separation or after divorce should be granted or withheld on grounds as strictly applicable to one parent as to the other.

[First, the well-being of the child; then, equity as between the contending parents. The 'Married Women's Property Act' has materially modified the ancient conception of the family, and led the way for this further measure of natural justice.]

2. The trusts of parentage should not be held to be diminished on either side by the fact that the parents are unmarried.

[A father may claim his illegitimate child after a certain age; the mother cannot free herself of the custody if the father is willing to aliment. This is one-sided, and disregards the value of the paternal control.]

3. The expenses consequent on affording either parent the right of access to the child should be equally apportioned.

[It is part of the custodier's obligation to the child that it should develop a natural relationship to the parent who has been awarded the right of access. The expense of that access should therefore be made an equal burden.]

4. Parents should be joint guardians, with equal responsibility to each other and to the State for the welfare and maintenance of the child, and with equal power of appointment by will of guardians to act after death. The surviving parent should have sole custody of the child, and the guardian, if any, appointed by the parent who dies first, should be able to act during the lifetime of the surviving

parent only through the medium of the Court. After the death of both parents, the guardians appointed by each should have equal power.¹

5. The teaching of speculative opinions which may be contrary to State religion should form no ground in law for depriving either parent of the custody of the child.

Conclusion.

The embodiment of these principles in the law by a special act of legislation is necessary to secure justice, there being no reason to believe that judges, with whatever discretionary power endowed, will arise clad in strength sufficient to throw off the weight of the *patria potestas*. In the most recent case (page 7), where the progress of enlightened opinion, and the enlarging sense of what is due to women and children, should surely have been felt, Lord Shand was especially careful to re-affirm the narrow principles of the *Lang* decision. The high-handed rule of the ancient Roman father commends itself in a tribunal of justice to-day.

Of the high necessity for an amended law, and of the extent to which it would beneficially operate, no real measure is afforded by the cases brought into Court, flagrant as these are. By the clearness and consistency of the judgments, appeals to the law have been kept at a minimum, and numerous cases of grievous hardship must have been silently endured. A law known to be administered on grounds of equality would go far to end such holding of women in legalised prostitution as was indicated in the case of *Nicolson*,² where a father of thirteen children, after falsely charging his second wife—a young woman—with adultery, sought to chain her to his home by taking possession of the child. The mother's appeal for her infant, 'You have thirteen others, he is my only one,' would probably in other circumstances not have been vainly made. An amended law would even more directly do away with that terrorising of mothers, through the children, into yielding up property, of which examples are so rife. 'I will grind you as small as the ashes of hell,' is one of the latest utterances of a husband, disappointed in his designs upon his wife's money, on learning that she was pregnant—a threat so fiendish in spirit as to render all comment idle.³

Doubtless it will be said that to weaken the dominion of the father is to tempt to litigation. The court wields, however, in its power of awarding expenses, an effective check to frivolous applications. And applications arising not out of caprice but out of frustrated lives are surely not to be discouraged. Should they prove numerous the fact will be at once an instructive revelation, and a severe criticism of the oppressiveness of a law which degrades alike the men who enforce it and the women who become its victims.

¹ Journal of the Vigilance Association, Nov. 15, 1883.

² 1869. 8, Macph., 1121.

³ Outer House, Dec. 12, 1883.

The Custody and Guardianship of Children.

TO SCOTTISH WIVES AND MOTHERS OF
EVERY CLASS.

*Do you know what the laws relating to a
Mother and her Children are?*

I. In every case where man and woman are bound together by marriage, the children of that marriage belong by law *solely to the father.*

The father alone has power to direct their education, and to decide in what religion they are to be instructed; he can apprentice them to any trade without the consent of their mother, and their earnings belong to him alone.

The father can also determine the children's place of residence. *He can remove them from the mother even in infancy;* can give them into the guardianship of any person he may think fit, or send them to a foreign country.

In no case has the mother any remedy, unless she invokes the aid of the Law

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Courts, *and even then the Courts will only help her if she can prove:—*

- (a) That the children have suffered very serious physical or moral injury from the treatment of the father.
- (b) That the conduct of the father has been such as to entitle her to a separation.

II. If a man conducts himself in such a manner that his wife is obliged to separate from him, *she has no power whatever over her children*, unless by legal proceedings she succeeds in obtaining a divorce or separation.

But there are many cases in which a wife has endured moral torture and physical ill-usage from her husband in which the Courts can grant her no relief, because his conduct does not amount to *illegal* cruelty or desertion. In such cases if she leaves her husband she has to leave her children also.

Cases indeed have arisen in which mothers have been ordered to give up their infants in arms to the tender mercies of such fathers as could defy nature herself by demanding the custody of these helpless nurselings. It is a notorious fact that there are at this moment young mothers in hiding, self-exiled from home, friends, country, because their mother-love compels them to defy the law in the fulfilment of those "sacred duties," of which we hear so much when the object is to bid woman

be content with the sole sphere of wife and mother, and to leave laws and law-making to her ruder, if not stronger, partner ; but which laws and law-makers account less than nothing, when they make the very possibility of their fulfilment contingent on the caprice, temper, or will of the one sole "sacred" being, the supreme and absolute husband and father.

III. Bad, indeed, is the case during the lifetime of the father, but the law, not content with making him supreme during his life, sanctions, sustains and encourages on his part, the exercise of the most brutal tyranny after his death.

The law grants to the father the power to nominate a tutor for his child, this tutor to act either during the father's lifetime or after his death. Should the father have appointed in his testament that the child shall be placed with any one, this nominee will be preferred to the custody over any other claimant, even the mother, unless the child be in infancy. It is the duty and right of the father's nominee to direct the education of the child, and to deal with his interests in accordance with the father's testamentary instructions and the pupil's position in life.

Where there is no express provision to the contrary, it has been held (*Borthwick v. Dundas*) that a mother is entitled to the custody of children under seven years of

age, while the sole direction of their education remains with the tutors nominated by the father.

Where the father has failed to appoint a tutor, the nearest *male relation through the father becomes the tutor-at-law*, subject to the judicial control of the Court. Failing him, the Court of Session may appoint a tutor-dative. An unmarried woman may be nominated tutor by the father; she is also eligible as curator: *no woman can be tutor-at-law..*

The mother has no right of guardianship unless by appointment of the father, nor has she any power to appoint a guardian.

IV. The shameful cruelty and injustice to mothers and children of such a state of the law have long been acknowledged and resented by the large majority of thoughtful men and women, and two years ago a vigorous effort was set on foot to amend it. The Infants' Bill, introduced by Mr. Bryce, M.P., the object of which was to remedy all these wrongs by readjusting the legal position of the mother in the family, and establishing by law the claims of the children of a married pair to the help and devotion of *both* parents, has now been before Parliament for two sessions.

The second reading in the House of Commons was carried in March, 1884, by 208 votes to 73, but the abuse of the forms of the House by two or three obstructives

delayed its further progress till the end of July, when it passed, with some important modifications, through its final stages; too late, however, for serious consideration by the House of Lords before the close of the Session.

In the Autumn Session, the Infants' Bill was introduced in the House of Lords in the form in which it left the House of Commons. The second reading was agreed to *without a division*, and the Bill was then referred to a Select Committee, by whom early in the present year it was reported to the House with very slight alterations. Repeated important divisions were taken on the later stages, but the Bill was re-affirmed by decisive majorities, and sent down to the Commons on the 1st of May, 1885.

The same obstructive forces which defeated the Bill in 1884 were again set in motion with such effect as to delay the second reading till August 3rd, or, rather, till the morning of August 4th, when, at five a.m., after the House had been sitting thirteen hours, 54 votes were given for the Bill to 17 against it. The "block" was at once put on again, and no further stage of the Bill was allowed to be taken. The three gentlemen chiefly responsible for the maintenance, in opposition to the wish of large majorities of both Houses of Parliament, of the unjust and cruel law which

the Infants' Bill sought to amend, are Mr. INCE, Mr. ONSLOW, and Mr. WARTON.

V. The promoters of this measure now earnestly appeal to you to assist them in so bringing the subject before the country as to make it impossible that a measure of such grave social importance should be left by the new Parliament at the mercy of a few wilful obstructives. The Bill will be introduced as soon as possible next Session, and its fate will undoubtedly depend on the zeal with which its friends do their duty *now*. If you think that the law is wrong and ought to be amended, please help them in one or other of the following ways in their effort to establish the co-equal rights, obligations, and duties of both parents with regard to their children.

1. Speak of the subject with your friends and neighbours, and tell them what the law really is. The overwhelming majority of both men and women need only to understand the vileness and cruelty of this law and they will be ready effectively to insist upon its immediate amendment.

2. Ask all such friends as you have interested, men and women both, to sign petitions to *both* Houses of Parliament in favour of this amendment of the law, and do not forget yourself to sign such petitions. If you can undertake to prepare petitions from your own locality, and to forward them for presentation as soon

as Parliament meets, this will be most useful.

3. Write yourself, or induce some of your friends to write letters to your local newspapers, explaining the state of the law, and try to bring about the discussion of the subject by your local clubs (political and otherwise), institutes, and debating societies.

4, *and most important*. Bring the subject under the direct notice of every Parliamentary candidate for your own constituency. It will be most helpful of all if you can induce electors to question such candidates in public meeting, as early as possible in the electoral campaign, and to force the consideration of the subject. Should any candidate plead ignorance, send him the needful information, and remind him that knowledge of the subject on his part is *essential*, as it is one with which the new Parliament will be called to deal at once.

5. Kindly aid the promoters of this work by sending the name and address of any candidate for your own constituency, and a copy of the answer given by him, to the address given below.

If friends of the cause would write out their own forms of Petition, and themselves forward their Petitions when ready

to members of either House of Parliament respectively for presentation, they would greatly assist the promoters of this reform. The subjoined form of Petition is offered as a suggestion to those who have not time to prepare a form for themselves.

TO THE RIGHT HONOURABLE THE LORDS
SPIRITUAL AND TEMPORAL [*or* THE HONOUR-
ABLE THE COMMONS OF GREAT BRITAIN
AND IRELAND] IN PARLIAMENT ASSEMBLED.

The Humble Petition of the undersigned
Sheweth :

That the law which vests the custody and guardianship of the children of a married pair in the father solely, to the exclusion of the mother, and further enables him to continue such exclusion after his death, is unjust, and ought to be amended.

Wherefore your Petitioners humbly pray that your Lordships [*or* your Honourable House] will pass a measure establishing the co-equal rights, obligations, and duties of both parents with regard to their children.

And your Petitioners will ever pray.

Copies of this paper (price 3d. per doz., or 1s. 9d. per 100, post free), with petition headings, written or printed, leaflets, and other papers, may be had from Mrs. Wolstenholme Elmy, Congleton.

September, 1885.

A. IRELAND AND CO., PRINTERS, MANCHESTER.

THE CUSTODY AND GUARDIANSHIP OF CHILDREN.

Reprinted from the "Cambrian News," January 15th, 1886.

BAD laws are often retained on the statute book because men are better than the law, and because, by their gentleness and tenderness, they modify and mitigate the law's severity, either by allowing it to remain a dead letter, or by not insisting upon its rigorous fulfilment in cases where its application would work obvious cruelty and wrong. In the hands of tyrants, bad laws, which have fallen into disuse owing to their manifest injustice, are powerful for evil, and are from time to time applied with savage brutality against the weak and innocent. The opponents of the full emancipation of women often say to those who seek the parliamentary franchise for women, that a woman's place is in the family, and that when she goes into politics she abandons her proper sphere. We wonder if those who talk in this way know what the actual legal position of women is in the family, and in reference to their own children.

We cannot, in a short article of this kind, enter into details, but it is clear that every mother is simply a slave, and has no more power over her own children than she has over the children of other people.

Dr. FRANCES HOGGAN, who has done so much to advance the cause of women's freedom, in one of her pamphlets, says :—"The legal position of the English wife and mother "of to-day differs but little from that of the Roman matron, "in all that relates to the custody and guardianship of

children and her rights over her own person ; and until
 “recently her property ceased, on marriage, to be hers, and
 “became her husband’s. Although the law now recognises
 “rights of property in married women, it does not recognise
 “in them any rights over their children. The children belong
 “to the father. He may take them away from their mother,
 “educate them where and how he pleases, bring them up in
 “any religion, or, if so minded, first in one religion, and
 “then in another. If he is poor, and the mother rich, he
 “may compel the mother to maintain the children, although
 “he chooses to take them away from her care. He may
 “leave the guardianship of them after his death to a
 “stranger, or even to his mistress, and the mother
 “has no redress ; and if, at his death, the father appoints
 “no guardian, and the children are left with the mother,
 “the law recognises in her no right, in case of her own
 “subsequent death during their minority, to appoint a
 “guardian in her stead. A father may legally break any
 “promise he makes to his wife, either before or after marriage,
 “concerning the bringing up of their joint children—
 “the opinion being held by lawyers that it is contrary to
 “public policy to allow a father to deprive himself of any
 “of the rights over the children which the law confers on
 “him.”

This is not an overdrawn statement of the facts. Cases in the law courts have laid down in the clearest manner every position affirmed by Dr. FRANCES HOGGAN in the foregoing graphic extract. It is an insult to tell women, who live under laws by which they can be deprived of their children and under which they cannot provide guardians for them, that they should confine their attention to their domestic duties. If there is one domestic duty more imperative upon a woman than another, it is the duty of keeping and guarding her children whose births imperil her life, and to whom she is bound by ties that no father, however loving, can ever realise or understand. But this is just the duty she has no legal warrant to discharge and

the only way she can obtain a change in the laws is by invading the political arena and fighting with all the weapons at her disposal for the recognition of her natural rights. It is a custom, even amongst some women, to pretend that no substantial wrong is done to women under the existing law, but surely the fact that in every case when man and woman are bound together by marriage, the children belong by law solely to the father is sufficient ground for seeking a change in the law.

Two years ago an attempt was made to get rid of this shameful cruelty and injustice to mothers and children by the Infants' Bill brought in by Mr. BRYCE. The object of this Bill was to establish by law the claims of children born in wedlock to the help of both parents. The second reading of the measure was carried in March, 1884, by 208 votes to 73, and it passed the Commons at the end of July, too late to pass the House of Lords. In the autumn session the Bill was introduced in the House of Lords, and passed after being submitted to a Select Committee. It came to the House of Commons on the 1st of May, 1885, and was obstructed until August 4th, when the second reading was passed by 54 against 17. The half-past twelve rule was then used against the Bill, and no further stage was taken. At the earliest possible moment the Bill will again be introduced and we trust passed into law.

This record shows that the principle of the measure has been affirmed by both Houses of Parliament, and Mrs. WOLSTENHOLME ELMY, who has never flagged in her exertions to get the guardianship and custody of children put on a just and reasonable basis, has virtually won the battle in which she has been so long and arduously engaged. The battle is virtually over, as far as the principle is concerned, but there is danger that in the desire to effect a compromise some fatal error may yet be made.

If Parliament is not willing to at once make

mothers equal with fathers in everything that pertains to the training and guardianship of children, the advocates of reform are willing to proceed gradually, but they are not willing that the suggestion should be embodied in the Bill that mothers should have control over the girls and the father over the boys. Instead of remedying the evil, a compromise of this kind would aggravate it by placing fathers in reference to daughters in the ridiculous position mothers now occupy in reference to both sons and daughters. The object of the promoters of the measure is not to improve the position of mothers at the expense of fathers, but to obtain for children the full advantage of possessing two parents. They desire also to secure the equality of both parents in all rights, duties, and obligations.

How strange it is that in these days of vaunted freedom it should be necessary to plead that mothers should not be robbed by fathers of their children, and that the father should not be treated as the sole parent. If mothers possessed exceptional legal privileges in reference to children, their maternal instincts and obligations might excuse, if not justify, such privileges; but that fathers should have it in their power to deprive mothers of their infants, and to send them away into strange keeping is monstrous, and could not be if women possessed a voice in the election of members of Parliament. Nothing less than perfect equality in rights, duties, and obligations in reference to children will satisfy women, and it is to be hoped Parliament will not insult them by offering them anything less. Marriage and motherhood have been degraded by law long enough, and it is high time that reform should find its way into this branch of domestic legislation.

Copies of this paper (price 3d. per doz., or 1s. 9d. per 100, post free), with petition headings, written or printed, leaflets, and other papers, may be had from MRS. WOLSTENHOLME ELMY, Congleton.

J. Gibson, *Cambrian News* Printing Works, Aberystwyth.

THE INFANTS' ACT, 1886.

THE RECORD OF A THREE YEARS' EFFORT

FOR

LEGISLATIVE REFORM

WITH ITS RESULTS.

London :

WOMEN'S PRINTING SOCIETY, LIMITED,
GREAT COLLEGE STREET, WESTMINSTER, S.W.

THE INFANTS' ACT, 1886.

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WITH ITS RESULTS.

London :

WOMEN'S PRINTING SOCIETY, LIMITED,
GREAT COLLEGE STREET, WESTMINSTER, S.W.

Mrs. Linsen Clay -

With the compliments of Mrs. Wolstenholme Elmy,
who asks your kind co-operation.

*Buxton House,
Congleton.*

Loose Item

THE INFANTS' ACT, 1886.

*The record of a three years' effort for Legislative Reform,
with its results.*

ON the 25th of June, 1886, the eleventh Parliament of the reign of Queen Victoria was prorogued, with a view to its immediate dissolution. In the course of the Queen's Speech, read by the Clerk at the Table, occur the following words "My Lords and Gentlemen, It is with satisfaction that I have given my assent ——— to the bill for amending the law relating to the Custody and Guardianship of Children."

For the first time, it is believed, in our Parliamentary history, a measure intimately affecting the well-being of the family, and designed to secure somewhat more of justice towards women and children, has been introduced and carried through by the Ministry of the day, and has been thought worthy of formal and prominent recognition in a Queen's Speech. In the hope that this may prove an auspicious omen and that the immediate future may see the full day of those happier family relations resting upon justice, of which we have now seen the dawn, and with the desire to rouse to active exertion for so noble an end all those who believe that injustice in the family is the bitter root of all other injustice, social or political, this record of one such effort and its success is now issued.

The subject naturally arranges itself under four heads (1) The exposition of the unjust state of the law which the bill for amending the law relating to the custody and guardianship of children was designed to remedy; (2) The narrative of the action taken both in and out of Parliament to secure this reform; (3) The

explanation of the character and effects of the measure; (4) The statement of what remains yet to be done to secure the full and final emancipation of the women of these islands from the unjust conditions imposed upon them by law, and their establishment in the family and in the State, as the friends and helpers, and no longer the slaves, of man.

In order to the thorough comprehension of the evil state of the law which the Infants' Bill of 1884 was designed to remedy, it may be convenient to quote the words, written in 1884, of one of the most active promoters of this reform:—"It would seem needless to insist upon the elementary fact that every human child must have *two* parents, that there can be no father without a mother, no mother without a father; if this were not just one of those primitive truths which the law as it stands at present, seems expressly framed to ignore or to disguise. The law of this and of most other countries contravenes common sense, humanity and justice, by dealing with every child as the offspring of one parent solely. Upon the *mother* of a child born out of marriage, it imposes duties, liabilities, and penalties, whilst it concedes to her only the most shadowy of rights; the father of such a child being a person unknown to the law, except where the action of the mother, or of the guardians of the ratepayers' pockets, has compelled him to contribute some slight share towards the cost of the maintenance of the child; other legal duties and responsibilities he has none, but neither has he any legal rights. The *father* of a child born in marriage is, on the other hand, the *sole parent*, so far, that is, as legal rights extend; their mother, *as such*, has *no* legal rights, though the law imposes upon her, 'under criminal and other penalties, liabilities and obligations almost equal to those of the father.'

It will be remembered that so recently as last year a young lady petitioned that she might be allowed to spend her summer holidays with her own mother, from whom she was separated for no fault of her own or of her mother's, but in virtue of the supreme legal rights of her father. The Court refused her petition, natural and proper as it seems to every one of human feelings; and the words of the Master of the Rolls in giving judgment, on the 24th of July, 1883, are more significant and instructive as to the actual

state of the law, than the words of any non-professional writer can be.

By the law of England *the father* has control over the person and education and condition of his children until they attain twenty-one years. It is also the law of England that if any one alleges that another is under illegal control, he may apply for a writ of *habeas corpus*, and have the person so controlled brought up before the Court. The question for the Court is whether the person is in illegal custody without that person's consent. Now up to a certain age infant children cannot consent or withhold consent. They can object or they can submit, but they cannot consent. The law as a general rule has fixed on a certain age, in the case of a boy at fourteen, and in the case of a girl at sixteen, up to which the Court will not, upon an application for *habeas corpus* as between father and child, inquire as to whether the child does or does not consent to remain in the place where it may be. But after that age the Court will inquire, and if it should be ascertained that the infant, no longer a child, is consenting to remain in the place where it is, then the point for granting a *habeas corpus* fails. His Lordship, after observing that the same law was now administered by all the Judges, said that the cases referred to as to the writ of *habeas corpus* did not at all apply to the propositions for which they were cited. In the present case, of course, they had no application, as this young lady was not away from her father, but under his control, and any order made upon this petition would be in effect against the father to remove her from his custody. Then with respect to the testamentary guardian, he is a creature of law, and nature has nothing to do with him. The law of England *recognises the rights of the father*, not as the guardian, but *because he is the father of his children*, and if recognised as their guardian merely his rights would probably be limited. The father has greater rights than the testamentary guardian or any other guardian can have. The testamentary guardian is not called on to feel affection for his ward, he is not called on to forgive his ward, he is not called on to treat his ward with tenderness. He has not the rights of the father, because he is not the father. *The rights of the father are recognised, because he is the father*; his duties as a father are recognised, because they are

natural duties. The natural duties of a father are to treat his children with the utmost affection, and with infinite tenderness; to forgive his children for any slip whatever and under all circumstances. None of these duties are duties of the testamentary guardian. The law recognises these duties, from which if a father breaks he breaks from everything which nature calls upon him to do; and although the law may not be able to insist upon their performance, it is because the law recognises them, and knows that in almost every case the natural feelings of a father will prevail. The law trusts that the father will perform his natural duties, and does not, and, indeed, cannot, inquire how they have been performed. *The right of the father thus recognised is not a guardian's, but a paternal right; the right of a father because he is a father, which is far higher than that of any guardian, and this because the law reposes trust in the father, that he will perform his natural duties.* There are, no doubt, cases which show the limits of this doctrine. If the father by his immoral conduct has become a person unfit, in the eyes of every one, to perform his duties to his child and to claim the rights of a father towards his child, then if the child be a ward of Court—for otherwise the Court has no jurisdiction whatever—in such cases the Court will interfere. So, also, if the father has allowed certain things to be done, and then, by capricious change of purpose, has ordered the contrary, to the injury of the child, the Court will not allow that capricious change of mind to take effect, though if the thing had been done originally, the Court could not have interfered. I am not prepared to say whether *when the child is a ward of Court and the conduct of the father is such as to exhaust all patience—such, for instance, as cruelty, or pitiless spitefulness carried to a great extent—the Court might not interfere. But such interference will be exercised ONLY IN THE UTMOST NEED, AND IN MOST EXTREME CASES.* It is impossible to lay down the rule of the Court more clearly than has been done by Vice-Chancellor Bacon in the recent case of “*Re Plowley*” (47 “*L. T.*,” N.S., 283). In saying that this Court, “whatever be its authority or jurisdiction, *has no authority to interfere with the sacred right of a father over his own children,*” the learned Vice-Chancellor has summed up all that I intended to say. *The rights of a father are sacred rights because his duties are sacred; but the rights*

of a testamentary guardian are legal rights and legal rights only. *With those sacred rights the Court has not interfered, and will not interfere, unless the conduct of the father has been such as to give the Court that authority.* If the father has been guilty of gross immorality, so as to make it improper that he should be guardian of any child, or if he is influenced by wicked causeless caprice, which must be detrimental to the interests of the child, then the Court will interfere to prevent contamination or injury.'

These sacred rights of the father were, it will be observed, in the eyes of the law, so *exclusive* and paramount as to justify and demand the refusal to a young girl, at the most critical period of early womanhood, of the solace of a few weeks' intercourse with a blameless and beloved mother; and this although the gratification of the daughter's wish would have involved no denial to the father of the solace of his daughter's company, since she was not actually, but only *legally*, in his custody, not having seen him for more than a year.

It will be seen from this that the father alone has the absolute legal right to deal with his child or children, to the extent of separating them, at his own sole pleasure, from their mother, and of giving them into the care and custody of any person whom he may think fit. The mother has, as such, no legal status, no choice, voice, lot or part in the matter.

That there may be no doubt whatever on this point, I will cite a few of the legal dicta on this head, illustrating the precedents and authority upon which the Master of the Rolls rested his judgment in the Agar-Ellis case.

Lord Ellenborough says—'He (the father) is the person entitled by law to the custody of the child.' Mr. Justice Pattison—'The law is perfectly clear as to the right of *the father* to the possession during infancy of his legitimate children of whatever age they may be.' Lord Chancellor Hardwicke says—'*The father* is entitled to the custody of his own children, not only by nature, but by *nurture*;' and Lord Chancellor Eldon, a century later, echoes—'The law makes the father the guardian of his children by nature and *nurture*.'

By nature and nurture married mothers in these 'three kingdoms

are, during the lifetime of their husbands, held by the law to have nothing whatever to do with their own children. The measure of the father's legal rights is the measure of the legalized wrongs of the mothers and children; for in no case have these any means of redress against the caprice or malice of the sole parent whom the law invests with authority, unless the mother be rich enough to appeal to the superior Courts; and then she must be able to prove such gross and scandalous misconduct on the part of the father towards the children, as to disqualify him for any charge or control of them, and such misconduct on his part towards herself as legally to entitle her to a separation. Under such circumstances the Court may give her the custody of her children under sixteen.

The grossness and injustice of the law as between the parents can scarcely be better illustrated than by the fact that it has been ruled that the adulterous life of the father does not disqualify him from claiming the custody of his children, provided he do not bring them in contact with his mistress; whilst, I believe, in not a single case, has the mother guilty of adultery (though not leading an adulterous life), been allowed the custody of her children, and only sparsely admitted access to them; yet, the father under such circumstances, must from the nature of the case, delegate the actual performance of his parental duties to some third person or persons, whereas the mother may be most competent to perform her maternal duties and most desirous of doing so.

In one case only can a *poor* wife and mother obtain any protection or security for herself or for her children, and in this case the intervention of the local courts is permitted; for under the Matrimonial Causes Act Amendment Act, 1878, when a man has been convicted of an aggravated assault upon his wife, she may apply to the justices or to the stipendiary magistrate before whom her case has been heard, for an order of separation, which, if granted, will have the legal effect of a degree of judicial separation; and the court may, in making the order, give the injured wife the custody of her children under TEN years of age, with alimony for her and their maintenance. But as the Act left it absolutely at the discretion of the Court to *give or refuse* such an order, it has happened that in many, even of the worst cases, the desired relief has been refused. A wife's release

in such a case, and her right to the custody of her children are contingent on the judgment, the pleasure, or the caprice of the Court before which her case is heard.

Let it be carefully noted that the mother in this case only obtains the custody of her children under *ten* years of age. Why this difference should be made between her and her richer sister, who can afford the expense of an appeal to the Superior Courts, and *may* through their intervention, obtain the custody of her children under sixteen, it is not easy to understand. Let it be remembered also, that before she *can* obtain this order of separation, her husband must not only have been actually convicted of a brutal assault upon her, but there must be produced sufficient legal evidence to show that there is real future danger to her in the compulsory continuance of the cohabitation.

Nor can I here refrain from adverting to one of the foulest wrongs still sanctioned by our law. The degradation of woman as mother is too intimately bound up with her infamous degradation as wife, for the one slavery to be ever forgotten in speaking of the other. The actual legal status of every wife in these three kingdoms in her most intimate personal relations is *solely* and *strictly* that of a *slave*. Of the horrors to which such legal infamy gives sanction it is impossible here to speak, but the fact that the majority of husbands would loathe to exercise their strict legal prerogative, is no excuse for the maintenance of so atrociously wicked a law. Rather is it a reason for the immediate bringing of that law into harmony with common decency and with justice.

To return to our more immediate subject, in Scotland, where the extreme rigour of the legal view of paternal supremacy has been little mitigated either by positive statute, or by the considerations which have weighed with the Southern Courts, cases have arisen in which mothers have been ordered to give up their infants in arms to the tender mercies of such fathers as could defy nature herself by demanding the custody of these helpless nurslings. It is within my own personal knowledge that there are young mothers in hiding, self-exiled from home, friends, country, because their mother-love compels them to defy the law in the fulfilment of those 'sacred duties,' of which we hear so much when the object is to bid woman be content with the sole sphere of wife and mother, and to leave laws

and law-making to her ruder, if not stronger, partner ; but which laws and law-makers account less than nothing, when they make the very possibility of their fulfilment contingent on the caprice, temper, or will of the one sole 'sacred' being, the supreme and absolute husband and father.

Of one such judicial decision, an eloquent writer, to the honour of humanity, be it said, not a woman, but a sober-minded man, thus forcibly speaks :—

'It is enough to make thoughtful women mad with indignation. While such judicial iniquities can be practised, we must be content to see the gentle and the timid forego the privileges of their sex and enter the arena where outrages of this sort find defenders. The shame perhaps is ours that we do not join them in their denunciations, or relieve them of their task by taking it upon ourselves. The laws by virtue of which such shameful demands can be preferred and such odious decisions given are the survivals of times when women were literally the slaves of men. Much worse than this may be said. The actual state of subjection and legal inferiority in which women are found has been theorised upon and made to fit in with a theory of the relations of husband and wife with regard to their children which degrades one sex to the position of being mere accessories to the lordly rights of the other—mere instruments for replenishing the earth with heroes and clodhoppers. The practice of some Eastern peoples is more consistent when they kill off those of their female children whom they do not want. So long as these unjust laws prevail our civilisation stands arraigned. The judges blush to execute them. Their respect for law and precedent can hardly nerve them to bear the shock. When that point is reached the case must be bad indeed.'

Bad, indeed, is the case during the life time of the father, but the law not content with making him supreme during his life, sanctions, sustains and encourages on his part, the exercise of the most brutal tyranny after his death. Nay, where the father has shown no desire to exercise such tyranny, the law will actually permit, unless the father *has expressly provided against such a contingency*, third persons to step in between the widowed mother and her children, and to exercise this tyranny in his name and in pursuance of his legal rights,

The father may by will appoint any guardian or guardians he pleases for his children, passing over their mother altogether if so minded, and against such guardians the mother has *no legal rights*. Lord Justice Cottenham, in reference to a particular case, says:—“When the case was before me, in the autumn, I had considerable reason to believe that there was much misapprehension in the mind of the mother as to her rights as a mother; and I thought it necessary to explain that in point of law, she *has no right* to control the power of the testamentary guardian. It is proper that mothers of children thus circumstanced should know that they have *no right, as such*, to interfere with testamentary guardians.” Such guardians have and may exercise, the legal rights of the father as against the mother, with regard to her children. Should the father neglect to appoint a testamentary guardian, the law of England and Ireland condescends then to recognize the mother, whom it invests with a *limited* share of parental power and authority. She is then, and *only then*, spoken of as guardian by *nature and nurture*. She has a right to the care and custody of her children within the age of nurture, and the care of their education. In Scotland, however, the widowed mother does not thus become the tutor, as the legal phrase there is; but the rights of the father pass to the nearest male relative on his side, who becomes the legal tutor, and has the right to regulate the lives and determine the education of the children. And even in England and Ireland, where the mother is graciously recognized as guardian *by nature and nurture*, her legal power is still very limited. She can make no provision for the guardianship of her children in the event of her own death. To enable her to do this, she must have been appointed testamentary guardian by her husband, who must *further have expressly authorized her* to exercise such a power.

Nor is this all, the mother, even when guardian ‘by nature and nurture’ is bound to bring up her children according to the views, and in the religious belief of her deceased husband, even though her own differ therefrom; and if she neglect or fail to do this, she is at the mercy of third persons who may apply to the Courts for the appointment of a joint guardian, with power to compel her to do so, or for the removal of the children altogether from her custody. We are all too painfully familiar with these distressing cases, which are

of constant occurrence. The words of Vice-Chancellor Wickens may serve to show us how the evil law appeared to one whose official duty it was to administer it.

The case was that of a girl, whose father, a Roman Catholic, dying *when the child was only a few months old*, left no directions as to the way in which she should be brought up. The child had been baptised in infancy as a Roman Catholic, but after her father's death was brought up and educated by her mother as a member of the Church of England. When the child was about eight years old, a question was raised in the Palatine Court of Chancery, where the estate of her father was being administered, as to whether the child ought not to be brought up in the religion of her father. In giving judgment, Vice Chancellor Wickens said :—

‘To direct that the ward should be brought up in the Roman Catholic faith will be to create a barrier between a widowed mother and her only child ; to annul the mother's influence over her daughter on the most important of all the subjects on which it can be exercised, with the almost inevitable effect of weakening it in all others ; and to introduce a disturbing element into a union which ought to be as close, as warm and as absolute as any known to man ; and lastly, to inflict the most severe pain on both mother and child.

‘But it is clear that no argument which would recognize any right in the widowed mother to bring up her child in a religion different from the father's, can be allowed to weigh with me at all. According to the law of this country, *the mother has no such right*. The duty of the widowed mother is in general to bring up the child according to the faith which the father professed ; even though she utterly disapproves of it, and feels that to do so will diminish her influence over the child, and cloud the relation between them.’ It was accordingly ordered that the child must be brought up in her dead father's faith and the order was affirmed, on appeal to the Lords Justices.

So monstrous is the law of these three kingdoms with regard to the closest and most sacred of human relations. The mother who does more, suffers more, and most frequently loves more, is nothing. The father is exalted by a selfish and stupid prerogative into a mimic Deity, and the severe effects of his supreme power are made to outlast life itself. These atrocious laws belonged fitly to a

time when the child was considered solely as *the property of the father* ; but do not suit a period in which the dignity and worth of even the youngest child, as an independent human being, is becoming gradually recognized."

Such, in spite of the ameliorations of the earlier "savage simplicity" of this branch of the law, was its actual condition, when, at the close of the Session of 1883, Mr. James Bryce, gave notice that he would, early in the next Session, move for leave to introduce a Bill to amend the Law relating to the Custody and Guardianship of Infants. Mr. Bryce was moved to this step by the urgent request of some earnest friends of reform in this direction, who knew that he had for some years been profoundly convinced of the injustice of the existing law, and had been carefully considering the best way of remedying it. The time appeared propitious, since earlier in the year, an elaborate statement of the conditions of the existing law with suggestions for its amendment, contained in a paper by Mr. H. N. Mozley, read at one of the London meetings of the Social Science Association, had led to a fruitful discussion of the subject by many of those most deeply interested, and to a lively newspaper correspondence, whilst later on public indignation at the cruelty of the law, had been much roused by the circumstances of the Agar-Ellis case, which had led to the delivery, by the Master of the Rolls,—of the judgment already cited.

Mr. (now Sir) Horace Davey, who had been engaged as counsel in the Agar-Ellis case and whose desire for justice, and deep sympathy with the wrongs of women, had been abundantly shown by the invaluable services rendered by him to the efforts for an amended law which ended in the passing of the Married Women's Property Act of 1882, was also asked to give his assistance, and promised to do so.

During the Autumn of 1883, the agitation in support of this reform was actively commenced, and public interest having been once thoroughly roused, was kept alive by the several cases, which just at this time, occupied the Scottish and Irish Law Courts, as if designed to illustrate the full iniquity of the law.

The newspaper press lent much valuable aid, and two important articles, one from the "Manchester Weekly Times," and the other from the "Scotsman," were reprinted and widely circulated by the

promoters of the agitation, together with a paper by Mr. A. Baker, (now British Consul at Vera Cruz,) read at the Social Science Congress held at Huddersfield, whilst Mr. T. Carlaw Martin, prepared, printed and circulated, at his own cost, a most valuable digest of the Law of Scotland as to the Custody and Guardianship of Children, besides taking the direction of the work in Edinburgh and generally throughout Scotland, being actively assisted during the first winter by Miss Thérèse C. Simpson.

The active direction of the agitation elsewhere, and the entire responsibility, together with the greater share of the actual labour involved, were undertaken by Mr. Elmy and Mrs. Wolstenholme Elmy, and sustained till the final passing of the Infants' Act, on the 25th June, 1886. During the autumn of 1883, many leaflets, circulars and papers, besides those above mentioned, were prepared and issued, together with copies of the subjoined petition-form,—

*To the Honourable the Commons of Great Britain and Ireland
in Parliament Assembled.*

The Humble Petition of the undersigned

Sheweth:

That the law which vests the custody and guardianship of the children of a married pair in the father solely, to the exclusion of the mother, and further enables him to continue such exclusion after his death, is unjust, and ought to be amended.

Wherefore your Petitioners humbly pray that your Honourable House will pass a measure establishing the co-equal rights, obligations, and duties of both parents with regard to their children.

And your Petitioners will ever pray.

Similar petitions, addressed to the House of Lords, were prepared and issued.

Most efficient and valuable help was given, during the winter, by Dr. Frances Hoggan, Mrs. E. M. Lynch, and Mr. Arthur Nicols, F.R.G.S. etc., each of whom gave important and instructive lectures in various places, and succeeded everywhere in calling forth strong condemnation of the unjust law, and great enthusiasm for its amendment.

On the 6th of February, 1884, "A Bill to amend the Law relating to the Guardianship and Custody of Infants" was brought in by Mr. Bryce, Mr. Davey, Mr. George Anderson and Mr. Staveley Hill.

The text of the Bill is here subjoined in order that the friends of the cause may be enabled to judge how thorough was this—the first proposal ever made to any Legislature for the legal recognition of the just and natural claims of a married mother to her offspring as on an equal footing with those of her husband.—

Whereas it is expedient to amend the law relating to the guardianship and custody of infants.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited as the Guardianship of Infants Act, 1884, and shall come into operation on its passing.

2. *The parents of any infant shall during the continuance of their marriage be its joint guardians.*

3. *On the death of either of the parents of an infant the survivor shall be its guardian.*

4. The parents of any infant who is unmarried at the time of the death of the survivor of them may, by any deed executed by them, appoint a guardian or guardians for such infant after the death of the survivor of them; and in default of such appointment, or in case such appointment shall not take effect, the survivor of such parents may by deed or will appoint a guardian or guardians for such infant; and in default of such last mentioned appointment, or in case the same shall not take effect, the guardian or guardians (if any) appointed by the will of the one of such parents who shall first die shall be guardian or guardians of such infant.

Provided that when any infant shall on the death of its father before the death of its mother become entitled to any real or personal estate, any guardian appointed by the will of its father shall be a guardian of the estate of such infant jointly with its mother.

5. Where any question shall arise as to the custody of an infant whose parents are living separate from one another, or as to the religion in which it is to be brought up, the Court shall have power to make such order as it may think fit regarding the custody of such infant or the religion in which it is to be brought up.

6. Every guardian under this Act shall have all such powers over the estate and the person, or over the estate, (as the case may be), of an infant as any guardian appointed by will or otherwise now has under the Act twelve Charles the Second, chapter twenty-four, or otherwise.

7. In the application of this Act to Scotland the word guardian shall include tutors, and the word infant shall include pupils.

8. In the construction of this Act the expression "the Court" shall mean—

In England the High Court of Justice.

In Ireland the High Court of Justice.

In Scotland the Court of Session.

Subject to the provisions of any Rules of Court any application under this Act to the High Court of Justice in England or to the High Court of Justice in Ireland shall be made to the Chancery Division of the said Courts respectively by petition or summons at chambers.

9. Nothing in this Act contained shall (except as is herein expressly provided) restrict or affect the jurisdiction of the High Court of Justice in

England and of the High Court of Justice in Ireland, or of any division of the said Courts, and of the Court of Session in Scotland, to appoint guardians, or (in the case of Scotland) factors loco tutoris or otherwise in respect of infants.

10. The Acts contained in the schedule hereto are repealed to the extent therein mentioned.

It will readily be seen that the gist of the measure is comprised in clauses two and three, which provided that—2. The parents of any infant shall during the continuance of their marriage be its joint guardians. 3. On the death of either of the parents of an infant the survivor shall be its guardian.

Other clauses of the Bill provided for the appointment by the parents, either jointly or severally, of a guardian or guardians for the child or children, for the exercise of the jurisdiction of the Courts (in England and Ireland the High Court of Justice, in Scotland the Court of Session) in the case of differences between parents living separate from one another as to the custody of the children, or the religion in which to bring them up; and for the exercise of the powers of guardians duly appointed under the provisions of the measure.

The one departure in the Bill from the principle of perfect equality between the parents was found in the proviso which empowered *a father* to appoint a guardian of the estate of an infant, such guardian to be *joint guardian with the mother* of the estate of the infant; whilst the main defect of the measure lay in the fact that it contained no provision securing its benefits to the poor, whose means would not allow of an appeal to the superior Courts.

The flagrant cruelty and injustice of various cases which came before the English, Irish, and Scottish Courts (for each of the three kingdoms supplied typical cases of hardship and of gross wrong inflicted strictly according to law upon both mothers and children), so strongly roused public feeling on this subject, that when the Bill came to be read a second time on the 26th of March, there was found even in our exclusively male Legislature, absolutely no defender of the existing law, the debate being restricted either to the consideration of questions of detail, or to the inquiry whether in seeking to establish the absolutely co-equal rights of mothers, the Bill did or did not go too far.

As usual, our "practical" politicians found it easier to suggest

palliatives for some of the cruel consequences of a legal injustice, than to sweep away the injustice itself, which injustice nevertheless found no apologist.

Upon a division, there voted for the second reading of the Bill two hundred and eight, exclusive of tellers, and seventy-three against it. Of the opponents of the Bill, taking in tellers, fourteen were so-called Liberals, one a nominal Home Ruler, and sixty Conservatives; whilst for the Bill there voted thirty-three Conservatives, amongst them Lord Randolph Churchill, Sir Richard Cross, Mr. H. S. Northcote, Sir Robert Peel, and Mr. J. G. Talbot, (member for the University of Oxford), with whom were associated eighteen Home Rulers, and one hundred and fifty-eight Liberals, including seventeen members of the then existing Administration.

Distributed according to nationalities, there voted against the Bill, five members sitting for Scottish constituencies, ten for Irish, with sixty representatives of constituencies in England and Wales. For the Bill there voted thirty-seven Scottish, twenty-eight Irish, and one hundred and forty-four English and Welsh members.

The tellers on both sides were Liberals, for the Bill,—Mr. Bryce and Mr. Davey; against the Bill,—Mr. Ince and Mr. William Fowler, so that the division lay outside simply party lines.

There are defeats which are victories, and there are victories, of which this was one, which fall little short of becoming ruinous defeats. The ladies who listened in the gallery were indignant at the whole tone and manner of the debate, and felt that nothing had ever so conclusively proved to them the absolute need existing for the direct representation of women in Parliament, as the foolish utterances of so many men, each of whom probably owed his best to his mother, as to the danger of doing justice and the inexpediency of fully and frankly recognizing the equal parental rights of the mother; so hard is it to see clearly through the gloom of privilege.

No wonder that one of those who listened, gave expression to her indignation in passionate verse.

"The bone of her bone you may take, and appeal
As of right to the law, is her own in a sense
Which can never be known
Save for this thing alone:
The child that is reared at her body's expense.

Her part is a growing burthen to bear,
 Present labour and after care ;
 The prodigal need to give of her best,
 To squander herself through the live-long hours.
 A sacrifice of perennial birth,
 A bondage binding her soul to earth,
 Keeping it down with a chain of flowers ;
 A swift life-current that sets to her breast,
 And leaves her happy and dispossessed,
 With fading beauty and 'minished powers,
 A tender torment, a priceless pain,
 A very passion of fond unrest ;
 Such is the loss and such the gain,
 Of the woman whom love has crowned and blest.
 * * *

Behold the wife constrained to part
 Her life in twain, in legal bands
 Idly eating her busy heart,
 Vainly wringing her empty hands,
 Wearing out in prayer the knees
 That should have been her children's lap,
 Spoiled of all but her silken ease
 A moaning creature in a trap,
 Wishing that hers had been the state
 Of the mother who never knew married mate."

See "A Rhyme for the Time," by Emily Pfeiffer, *Contemporary Review*, June 1884.

The most earnest workers in the cause, both in and out of Parliament, were nevertheless of opinion that the proper course was to persevere with the Bill and continue the education in justice of our legislators.

From the beginning of the Session to the 26th of March, including that day, petitions to the number of 158 had been presented in support of the Bill, with 15,960 signatures, the representative and influential character of which may be illustrated by the Oxford petition due to the efforts of Mrs. Rogers, and presented by Professor Rogers on March 20th, which included amongst its 142 signatures, those of 14 Heads of Houses, 24 Professors and Readers, and many other University dignitaries. Immediately upon the second reading of the Bill the work of petitioning was actively resumed, as well as the more direct work of influencing and educating members by appeals from their constituents and from personal friends.

Although the second reading of a Bill is usually held to involve the acceptance of its principle, the tenor of the debate had clearly

made it manifest that with regard to this measure this was not to be the case, and the usual tactics of the obstructives were brought into full play, avowedly with the intention of compelling the withdrawal of clause 2, the very soul and essential principle of the measure, since it substituted the joint guardianship of both parents for the sole authority of the father.

By successive notices of opposition, Mr. T. Collins, Mr. Gibson, and Mr. Warton contrived to delay any further consideration of the Bill till July 14th, when it went into Committee. On the 22nd of July, or rather at half-past two on the morning of July 23rd, the crucial division on clause 2 was taken, when there voted for retaining the clause nineteen, besides tellers, and for its omission forty-three, besides tellers. To the small, faithful band who voted for the absolute and unconditional surrender of an unjust masculine prerogative and for the full recognition of the true position of the mother in the family, the thanks of all mothers and children, and of all men who desire the family relationship to rest upon justice, are richly due. Their names, here subjoined, deserve to be for ever held in grateful remembrance, as having led the van in the struggle for one of the greatest and most far-reaching reforms of this or of any age:—George Anderson, Benjamin Armitage, Arthur Arnold, Jacob Bright, (Manchester), John Frederick Cheetham, Leonard Henry Courtney, Lewis Llewelyn Dillwyn, Albert H. G. Grey (Northum. S.), Isaac Holden, Henry Lee (Southampton), Charles Fraser Mackintosh, Charles B. B. McLaren, Ernest Noel, John Dick Peddie, W. Rice M. Powell, John Roberts, James Edwin Thorold Rogers, Hugh Shield, and John Slagg, with the tellers, Mr. Bryce and Mr. Davey.

On three later occasions, July 25th, 29th, and 31st, the measure was again under the consideration of the House of Commons, each time during those small hours of the morning to which the ridiculous and unbusiness-like forms of procedure of the House have long ago relegated the later stages of all serious legislation which does not kindle the flames of party strife. On these occasions the Bill underwent further modifications, not to say, mutilations. The principle of the Bill having been eliminated, the House found it necessary to substitute for the original provisions designed to give full effect to that principle another series of provisions which should mitigate the

evils arising out of the paternal supremacy which the majority of twenty-four decided to maintain.

Divisions were taken on each of these three occasions, with the result of showing a steadily increasing majority on the side of those who wished to secure a substantial amelioration of the harshness of the law.

On the 25th of July, Mr. Bryce brought up a new clause, which was read a first time. This clause, which now stands as clause 5 of the Infants' Act, was intended to supply, as far as might be, the place of the important clause 2, which had been lost by the vote of the 22nd. On the proposal "That the clause be read a second time," Mr. Warton moved "That the chairman do report progress, and ask leave to sit again," the object of course being to cause such delay, as at that late period of the Session might lead to the loss of the Bill. Upon a division, there voted for the Bill, 42; against, 10; besides the tellers on either side.

On the 29th of July, on the proposal "That the Bill be re-committed in respect of a new clause," Mr. Tomlinson proposed, to leave out the words "in respect of a new clause," the effect of which would have been to exclude from the Bill the one clause which did, in some degree, recognize the parental right of the mother as a right to be exercised even during her husband's life time.

The friends of the Bill, on a division, numbered 44, besides tellers, whilst the opposing tellers could only number 5 supporters.

Later on the same evening, Mr. Warton proposed an amendment the effect of which, if carried, would have been to limit the mother's right to appoint a guardian to cases in which she was living with her husband; and would have punished the innocent wife, who had obtained a separation or divorce from her husband, by depriving her of the power proposed to be conferred by the Bill, of appointing a guardian to act after her own death, and that of her husband. Mr. Warton and his co-teller, Mr. Tomlinson, found on this occasion, only 2 supporters, whilst the tellers for the Bill, found 32.

On the 31st of July, or rather, at 2.40 a.m. the 1st of August, the Bill came up for consideration as amended. By the urgent efforts of friends in and out of the House, a considerable number of the Parliamentary supporters of the measure had been induced to stop

up, late as it was in a very fatiguing Session, for the purpose of passing the Bill through its final stages. Mr. Warton renewed his efforts to limit the mother's right to appoint a guardian to cases in which she was living with her husband, but was beaten on a division by 61 votes to 2, his only supporters, besides his co-teller, being Mr. J. E. F. Aylmer, and Mr. (now Sir) R. N. Fowler. Mr. Warton then attempted to delay the third reading, but the feeling of the whole House being against him, he gave way, and the Bill was read a third time and passed at the same sitting.

During the course of the Session, 280 petitions in support of the Bill were presented to the House of Commons, with 28,272 signatures, amongst which one, presented by Lord Hartington on March 26th, from his own constituents, is worthy of special notice; the whole of the 1857 signatures being the result of the personal efforts of one lady, Miss Bowker.

As the House of Lords issues no report of petitions presented, it is not possible to give the numbers with the same exactitude, but the numbers which passed through Mrs. Elmy's hands, or were otherwise reported to her, make it impossible to doubt that at least as many and as numerous signed petitions, were forwarded to Peers for presentation, as were sent to members of the House of Commons.

The Bill as it went up to the Lords, differed, it will be remembered, from the Bill as originally introduced in the Commons by the omission of clause 2, which provided that "The parents of any infant shall during the continuance of their marriage be its joint guardians"; but a substitute, though necessarily an imperfect one, for this clause had been provided by the insertion of the clause which now stands as clause 5, of the Infants' Act. One real improvement, according to the views of the promoters of the measure, had been effected during the progress of the Bill through Committee, that of extending the jurisdiction of County Courts in England and Ireland, and Sheriff Courts in Scotland, to cases of this kind, so as to secure the benefits of the measure to the vast body of the people, who could not afford the costly luxury of an appeal to the superior courts.

The promoters of the Bill looked therefore with great anxiety, though also with great hope, to its reception in the House of Lords.

On Monday, August 4th, Lord Fitzgerald who had undertaken the charge of the Bill, moved the second reading in a very good and clear speech, putting the grievances of mothers quietly but firmly. Lord Cairns, after stating that the Bill proposed to make "the largest change in the law of this country relating to families that had been seen for the last 200 years," and making various criticisms on particular provisions, criticisms which, to its friends, did not seem quite fair or just, declared that it could not be proceeded with so late in the Session. Lord Bramwell followed in a somewhat similar strain; whilst the Lord Chancellor, (Lord Selborne) defended the Bill and pleaded the cause of mothers admirably, and with great fairness and sympathy, affirming that "the small amount of consideration now given by law to the mother with regard to her children was in principle wholly wrong, *as she had natural rights in her children not less than those of the father.*"

Feeling that it was most important to avoid a defeat, inevitable had the Bill been pressed to a division, and which might afterwards have prejudiced its consideration on its merits, Lord Fitzgerald most reluctantly withdrew the Bill.

A strong disposition was at once shown in various quarters to throw the whole blame of the loss of the Bill, and the consequent postponement of any alleviation of the sufferings of oppressed mothers and children, upon the House of Lords, and a lively correspondence thereupon occupied the columns of the *Times* early in the month of August, some well-known members of the House of Commons leading the attack on the House of Lords, and Lord Bramwell and the Duke of Argyll constituting themselves its defenders.

That the Parliamentary promoters of the Bill in the House of Commons, who had done so much to ensure its success—enduring again and again at the close of a wearisome session the heavy fatigues of sitting up all night in order to secure the further consideration of the measure—should feel and express serious irritation at the apparent waste of their strenuous efforts, was natural enough. But that other members of the Lower House who gave no aid whatever to the progress of the Bill should make the conduct of the House of Lords with regard to it a ground of attack upon that assembly was

unjust and absurd. The promoters of the Bill outside Parliament whilst deeply regretting that so necessary a measure of justice should have been even temporarily delayed, and whilst keenly sympathising with the suffering which in many instances must accrue from that delay felt bound to express their conviction that the real blame of the delay rests not with the House of Lords, but with those forms of procedure of the House of Commons which seem devised for the express purpose of hindering the effective progress of public business, and in particular with that use or abuse of the half-past twelve o'clock rule by certain obstructives, under which any single private member may virtually exercise the power of veto which the Crown long ago found it prudent to leave in abeyance, and so effectually impede the progress of measures as to which the overwhelming majority of the House and of the nation have made up their minds.

To this cause must be attributed not only much of the dead-lock of legislation, but much of the faulty and mischievous character of many of the measures which pass into law—their promoters being too often willing to buy off the obstructive forces by sacrifices of the most important details, or, what is still more fatal, the surrender of some vital principle.

In one of Lord Bramwell's pithy letters to the *Times*, he affirms that the Bill as sent up to the House of Lords contained no principle. This was perfectly true. The principle was eliminated when clause 2 of the Bill was cut out by a majority of twenty-four. That the Bill as it went to the Lords contained merely "a variety of provisions non-interdependent"—again to quote Lord Bramwell—was also perfectly true. That these provisions taken collectively constituted an important amelioration of the present wickedly cruel and unjust law was also true, but only proved that the supporters of the Bill in the House of Commons had found themselves obliged to be content with redressing grievances, since they could not succeed in putting an end to the source of these grievances.

It would not be worth while now to refer to this dead and gone controversy, were it not for the important fact that, in spite of the great expenditure of time which has since been made upon the reform of the procedure of the House of Commons, no change has, as yet, been made, in those particular

forms which lent themselves to this grave abuse, and it is still in the power of a small knot of obstructives, or even of a single obstructive, to defeat the efforts of the most earnest reformers, dealing with subjects of vital importance, provided only those subjects lie, as many urgently needed reforms do, and in particular reforms affecting the condition of women and of children, outside the limits which lend themselves readily to the exigencies of party warfare.

The controversy about the sacrifice of the Bill had, however, one very happy effect in drawing public attention still more closely to the matter, and in exciting an interest and sympathy in high political circles which were of the greatest possible value in its future progress ; whilst its active promoters wasted not one moment in vain regrets, but set to work at once to prepare for the renewal of the fight as soon as Parliament should meet again. The work of education by letter, lecture, memorial, petition, began again, and was most energetically carried on. The Social Science Congress at Birmingham gave an opportunity for the consideration of two papers, one by Dr. Frances Hoggan, read by herself, and entitled "The Position of the Mother in the Family in its Legal and Scientific Aspects"; and the other, read by Mr. Elmy, but written by Mrs. Wolstenholme Elmy, on the Infants Bill. The reading gave rise to an interesting and animated discussion, the arguments of the opponents of reform resolving themselves into the old, old assertions,—equality of both parents is the true principle, but there would be great difficulty in giving complete effect to it,—equality is *not* the true principle, for if two ride on one horse, one must ride behind,—to establish the Dual Control would be fatal,—such assertions being but the thin disguise of that fatal spirit of sex ascendancy which has so long degraded women, and demoralized men.

These two papers were reprinted in pamphlet form, and widely circulated, as was also another by Mrs. Elmy, read to the Dialectical Society, as well as the speeches in the House of Commons of Mr. Bryce and Mr. Davey. Numerous leaflets and circulars were also distributed.

From Mrs. Elmy's paper on the Infants Bill it will be convenient to extract the following criticisms on the Bill as it went up to the Lords.

"The main point is that clause 2 of the original Bill should be restored to its place, as being, in fact, the keystone and vital principle of the whole measure. Nothing short of the recognition by law of the co-equal rights and claims of both parents can ever satisfy the mothers of this nation, or do justice to children. Nor can any remedial measure stopping short of this point be either just or effective. For what is the ever-recurring difficulty of the Courts in dealing with questions between parents as to their children? Simply that one of the parties has no true legal status whatever. The English Courts, at any rate, have partially adopted the just principle that the interests of the children should be the guiding consideration; but they are confronted by the fact that even these interests have to be subordinated to the paramount, exclusive, and supreme legal rights of the father. It does not suffice to show which parent would be the better and fitter custodian; no matter how good, worthy, and capable the mother may be, she has no claim whatever, and only when the father has scandalously and fatally disqualified himself can the children gain any relief from the severity of his rights as to custody and guardianship. When this evil is once fairly seen as the monstrous and cruel injustice to children which it really is, its doom will be speedily pronounced.

To the clause which gave the right of guardianship to the surviving parent were added in Committee the words, "Either alone or jointly with any guardian to be appointed as hereafter provided," and the whole of clause 4 of the original Bill being swept away, a new series of provisions was introduced, empowering (1) each parent to appoint a guardian to act after the death of the surviving parent.

(2) The father to appoint a guardian to act jointly with the mother in case of her survivorship.

(3) The mother to apply to the Court for the appointment of a guardian to act after her death jointly with the father, the Court only to make such appointment on proof that in the best interests of the child it is really necessary.

The first of these provisions is plainly just and right. Parents are bound to make the best provision they can for the security and well-being of their infant children after their own death, but the

second provision sins against all principles of equity and justice. No such countervailing power of protecting her children is offered to the mother, though it is matter of common knowledge that children in losing their mother lose more than in losing their father, and are as apt to suffer injury through the misconduct or mistake of a surviving father as of a surviving mother. This seems, in truth, an unwise effort for the maintenance of the power of the simply masculine "dead hand;" yet the growing sense of justice and morality that has already denounced that power as applied to inanimate property must assuredly condemn it when it shackles and oppresses living and responsible agents or sufferers. The true solution of any difficulty that may arise would seem rather to be offered by an extension of section 3, which might be made to apply equally to both parents.

Clause 5 of the Bill as it went up to the Lords can only be necessary in the event of the non-restoration of the original clause 2. The clause which empowers a mother to apply without next friend for the intervention of the Court as regards the custody of her child, and requires the Court in deciding for the best welfare to take into account the conduct of both parents and *the wishes of the mother*, as well as of the father, was introduced by the Parliamentary promoters of the Bill as the best available way of compensating for the loss of clause 2, for which, however, they have never disguised their own preference. Should clause 2 be reinstated, this clause will be no longer necessary.

The rest of the Bill, both as introduced and as sent up to the Lords, consists almost exclusively of the machinery necessary to give effect to the Bill, and criticism thereupon in this paper would be misplaced. One important improvement, however, was made in this part of the Bill whilst it was before the House of Commons—the extension, that is, of jurisdiction in cases of the custody and guardianship of children to local courts, the sheriff courts of Scotland, and county courts in England and Ireland. Such jurisdiction is, under the existing law of Scotland, held and exercised by the sheriff courts, and it is absolutely essential, in the interests of that enormous body of persons who are not rich enough to avail themselves of the superior courts, that similar powers should be extended to English and Irish local courts.

A law to which only the rich can appeal is a national shame and wrong. As a consequence of this extension of jurisdiction, a right of transfer to the superior courts at the instance of any party to the application, and a right of appeal from any order was given by a new clause."

On the 23rd of October, 1884, Parliament re-assembled, but the House of Lords did not commence its regular sittings till November 3rd. Lord Fitzgerald speedily redeemed his promise of re-introducing the Bill, which was presented in the form in which it left the Commons in the previous year, was read a second time on Monday the 24th November, and referred at once to a select Committee. The debate on second reading was the briefest possible and noteworthy mainly for the warmth of feeling thrown by Lord Fitzgerald and the Lord Chancellor (Lord Selborne) into their support of the Bill.

On Monday, December 1st, the Lords following were named of the Select Committee. The Lord Chancellor, Duke of Bedford, Earl Cairns, Lord Sudeley, Lord Watson, Lord Brabourne, Lord Bramwell, and Lord Fitzgerald.

The uncertainty then existing as to the continuance of the Session after Christmas prevented further immediate progress in the Lords, but it may be readily understood that the time was not spent in idleness by the friends of the Bill.

On March 17th, the Committee met, chose Lord Fitzgerald as its chairman, and at one sitting disposed of the consideration of the Bill.

The proposal of Lord Fitzgerald for the restoration of the original principle of the Bill, *viz.*, the provision that "The parents of any infant shall, during the continuance of their marriage, be its joint guardians," was, after discussion, negatived by the Select Committee. In the clause which constituted the mother the guardian after the death of the father, either alone or jointly with any guardian appointed by the father, an addition was made on the motion of Lord Cairns, providing that "If no guardian has been appointed by the father, or if the guardian or guardians appointed by the father, is or are dead, or refuses or refuse to act, the Court may appoint a guardian or guardians to act jointly with the mother."

The provision empowering the mother to apply to the Court for the appointment of a guardian or guardians to act jointly with the father after her death, and enabling the Court "if satisfied, that such appointment is necessary in the interests of such infant," to make the appointment, was exchanged for a provision, enabling the mother by will or deed *provisionally* to appoint such a guardian, to be confirmed after her death, by the Court, under the same conditions. Various amendments of detail were made, but the only further proposal of serious import was made by Lord Cairns, who moved to restrict the clause which empowered the mother, even whilst living with her husband, to apply to the Court for an order regarding the custody of her child or children, in cases "Where the father and mother of any infant are living separate, under a separation by deed or decree of the Court or otherwise." On Question "That the words be there inserted," there were, Contents 3, Earl Cairns, Lord Watson, and Lord Bramwell. Not Contents 5, The Lord Chancellor, Duke of Bedford, Lord Sudeley, Lord Brabourne, and Lord Fitzgerald; so the clause remained unmutated, and it was finally ordered "That the Lord in the chair do report the Bill, with amendments to the House.

The action of Lord Cairns in this matter, was the cause of immediate and strong representations being made to him by influential members of the Conservative party as to the cruelty and hardship of the existing law, the urgent need for its amendment, and the mischief which would follow any such restriction as he had proposed. Actual cases of suffering and wrong were brought under his immediate notice, and it was believed by the promoters of the Bill that his interest and sympathy had been fully excited, and that he would cordially assist its further progress, after the Easter holidays, a circumstance which added to their regret at his lamented death. It is necessary to say this, in view of the manner in which the name and authority of Lord Cairns were used, a little later, for the purpose of damaging the measure.

On the 21st of April, on the order to go into Committee on the Infants Bill, Lord Fitzgerald said that notice had been given of an amendment by the noble earl opposite (Earl Beauchamp) which went to the root of the Bill, and if the amendment were carried he should consider it his duty to abandon the Bill. The principle of the

amendment ought really to have been discussed on the second reading of the Bill. The object of the Bill, which had its origin in the other House, was to amend the common law which gave the father of a family absolute control over his children to the exclusion of the mother. Under the law great cruelties had been practised and great hardships suffered. The Bill declared that in certain circumstances the mother should be guardian or joint guardian. It had been erroneously supposed that the late Earl Cairns was an opponent of the Bill; but he was not. Earl Cairns said that it would interfere largely with social relations, and that the details could not be settled satisfactorily except by a Select Committee; and the Bill had been carefully considered and amended by a Select Committee. The Bill of last year was supported in the other House by the law officers of the Crown, the Lord Advocate, and 17 members of the Government, and also Lord R. Churchill and Sir R. Cross. The present Bill differed in some particulars from that of last year, but its leading principle was to confer upon the mother the right to which she was morally and inherently entitled of appointing guardians for her children in case she survived her husband. Some objection had been taken to the proposal to give jurisdiction in these questions of guardianship to the County Courts. It was said that questions of great delicacy and difficulty might arise unfit for such a tribunal to adjudicate. But he thought it was impossible for any injustice or inconvenience to arise inasmuch as either party was entitled, without assigning any reason, to require the transfer of the matter to the Chancery Division of the High Court. The amendment swept away the whole principle of the measure, and if it were carried he should abandon the Bill.

Earl Beauchamp said that the Bill entirely overlooked the interest of the children, which was sacrificed to the sentiment on behalf of the mother. Nothing could be more injurious to the welfare of the children than a divided guardianship, and the law of England had not been unwise in throwing upon the father the entire responsibility of bringing up the children. The mother had not equal rights in the matter with the father. There was no reference in the Bill to the case of the mother re-marrying. It was important to remember that as the father was the head of the family the mother,

on a second marriage, became part of her second husband's family. Then there was no provision for divorced persons, and a divorced woman whose children had been placed by the Court under the protection of the husband would still, under the Bill, be entitled on the father's death to the guardianship of the children. If their lordships passed this Bill they would be introducing a principle which involved the utmost confusion in our families. The Bill would introduce discord between husband and wife, it would place women in a position of equality with men which by nature they did not possess, and it would open out sources of the gravest disaster in order to meet some exceptional cases which certainly had not been laid before their lordships. All cases of litigation were cases of difficulty and doubt. What their lordships had to consider was how our existing law affected our English homes in our every-day life. In his opinion that law was for the benefit of the children. He did not deny that there were exceptions to the general rule, but for the sake of exceptions which were limited in number and for which the proposed remedy was exceedingly doubtful, they had no right to upset the principles regulating the relations of a father towards his children. Perhaps he might be told that a Select Committee had carefully considered the Bill, but really this question was one not so much for the consideration of lawyers as for the consideration of fathers of families. The Select Committee did not pay so much respect to the interests, the position and the duties of fathers of families as they did to the somewhat exaggerated and hysterical view of the case which had been made out for mothers as against fathers. He thought he had now shown that the Bill itself was full of dangerous matter. He quite admitted, however, that there was one point in which the law might be amended with safety. As the law at present stood, the mother did not become guardian of the children if the father made no appointment at all. He thought there could be no doubt that when the guardian nominated by the father was dead or if the father waived his paternal rights it was right and proper that the mother should become the guardian of the children. This was one reason why he had hesitated to move the rejection of the Bill, but he thought he had shown that the measure would introduce novel and dangerous principles into our legisla-

tion, and therefore he intended to move, in committee, the amendments of which he had given notice.

The Lord Chancellor remarked that if the noble earl's speech were of any value at all it did not stop short of the total rejection of the Bill. He had listened to that speech with deep regret because it showed that his noble friend had not a just appreciation of the legitimate claims and rights of the mothers of this country, and of the scandalous state of the law, which at present entirely ignored them. (Hear.) He had hardly expected to be so soon reminded of the enormous and irreparable loss which the House had sustained in the death of Lord Cairns. The noble earl had spoken of the Select Committee as if it had been composed of men who approached this question with the feelings of lawyers only, but he was sure that Lord Cairns and the other members of the Committee took broad and generous views of the rights of fathers and of children. He would now make a few observations on the criticisms of his noble friend. In the first place there was not in the Bill a single word which interfered with the rights of a father. He denied that a father after he was dead was capable of discharging the duties of guardian of his child, and he also denied that any person whom the father might put in his place could succeed to the father's position and to his natural rights, however earnestly he might desire to discharge the duties entrusted to him. The objection of a divided authority had been raised, but surely such an objection would have no validity, because the Bill introduced no change in that respect. As things were now, more guardians than one might be appointed by the father, and the authority might be divided between them. In the event of a disagreement between the guardians, the Bill provided that the Court might be appealed to and would make such order as might appear to promote the welfare of the children. In his opinion the welfare of the children was intimately bound up with their relations to their parents, and the law, at all events, had enough of humanity in it to treat the mother as a child's guardian. And what was the title it gave her? The language of the law was "guardian by nature and nurture." He thought it would be a very unfortunate day for their lordships' House on which such a Bill as this were rejected on such grounds as had been urged against it. (Hear, hear.)

The amendment proposed by Earl Beauchamp to insert in the clause which made a surviving mother the guardian of her own children, the words "unless the father shall have by deed or will otherwise appointed," would have enabled a husband to exclude a surviving wife from such guardianship at his pleasure, and even to supersede her authority in cases in which she had been given, through her husband's fault, the custody of the children during his lifetime. In moving it, Earl Beauchamp said, he thought they should be acting much more wisely by retaining the right which the father now possessed. He believed the system on the whole was conducive to the peace of families. In cases of this kind they usually heard a great deal about the law of other countries. According to the law of the United States the father had the right of appointing a guardian to his children. That was an argument which ought not to be disregarded. He entreated their lordships not through the consideration of exceptional cases to upset a well-ordered system of English law which had existed for 200 years.

The Lord Chancellor said that the exact point involved in the amendment was that though there might have been a divorce through the husband's fault, and though the children might be in the wife's care during their father's life-time on account of his misconduct, he might by will appoint a guardian who was to supersede the mother.

The House, very wisely considering that the very object of the Bill was to limit this unjust and cruel prerogative, rejected the amendment by 40 votes to 5, and after a long conversation on the clause empowering a mother provisionally to appoint a guardian to act with the father after her death, the further clauses were all agreed to, and the Bill, with a few verbal amendments, and the addition of a new clause, explanatory of its effect upon the law of Scotland, passed through Committee.

The usage of the House of Commons precludes the proposal of vital amendments at the final stages of report and third reading of a Bill, but the practice of the House of Lords enables the conflict to be carried on to the bitter end.

On the 24th of April, on the report of amendments on the Infants Bill, the Earl of Limerick began the opposition by objecting to the provision in clause 3 which gave the mother of the infant power

to appoint and nominate a guardian by deed or will. Whatever was to be done on behalf of the wife ought to be done openly during her lifetime. It ought not to be possible for her to make an arrangement in secret which should be kept secret until after her death. It was a dangerous and an invidious power to give to enable a wife to appoint a guardian by will. He therefore proposed to amend the sub-section of the clause by providing that the Court might, upon the application of the mother of an infant, appoint a person or persons to act as guardian or guardians jointly with the father if the Court was satisfied that this was necessary or desirable.

Lord Fitzgerald said the objections of the noble lord would in some respects apply to any appointment of a guardian by will, for until the death of the testator, if it was the testator's wish, the provisions of a will must be kept secret. As the clause stood, it was the clause of Lord Cairns; and the amendment would restore the clause to its original form. There might be cases in which the wife might have the strongest reason for believing that her husband was not a proper person to be intrusted with the charge of their children after her death.

Lord Inchiquin said that he could not agree with either the amendment or with the clause as it stood. Lord Cairns said that in case of a temporary difference between the husband and wife the latter might make an application to the Court to annoy him and put him upon his defence. In any case the clause would be a fruitful source of inconvenience. The person or persons appointed by will would most likely be hostile to the husband, and even if not hostile could scarcely assert a claim to act without offending the father. The father might say that if he was to be interfered with they might be taken from him altogether, and he would not leave them any of his property. There might be individual cases in which the father should be interfered with; but then the law already provided. He should therefore move that the sub-section of the clause be omitted.

Lord Watson said he approved of the clause as it stood rather than of the proposed amendment. The clause could not come into operation until it was proved that the father was not a fit person to have the control of the children, and that the person nominated was a fit person. It was necessary that there should be inquiry lest any

deplorable consequences should result from the father being interfered with. A person nominated as guardian would have to make up his mind before applying to the Court whether he was likely to obtain the confirmation of his appointment. He would enter the Court with the responsibility that the case for his appointment must be proved.

The Lord Chancellor said there was some inconvenience in having two motions before the House at once. The noble lord who objected to this sub-section also made this motion. He had already explained that the law at present was very different from what it would be under that clause. It was true that the Court had power to take children from their father, either in the lifetime of the mother or at any other time, for causes which the precedents had established as sufficient. But that power was circumscribed by the rules for its application by Lord Eldon and other judges, and was never exercised save in the most extreme cases, not only of immorality or profligacy on the part of the father, but of such immorality as was proved to have directly influenced or affected the child. Even if the father was living in scandalous profligacy but did not bring his children into the society of his paramour or did not deprave the child by wicked teaching, the Court would not interfere. The cases provided for by the sub-section were those in which, in the opinion of all reasonable persons, it would be altogether wrong to allow the child to fall back under the power of the father. Take an extreme case. When the father and mother were living apart, and when there were young children, girls, living under the care of the mother during her life. In such cases, after the mother's death, the children fell back under the power of the father, however undesirable such a result might be, and even if the mother, herself being pure and blameless, had obtained a divorce from her husband. In such a case as that, this clause would enable the wife to anticipate and make provision for the event of her own death, and to name the person whom she would wish to succeed to her own place, so far as that was possible. But the clause as framed by his lamented friend Lord Cairns did not give her an absolute power or enable her to do this for any reasons which were not grave reasons. The Court could only confirm the exercise of the power in cases where it was absolutely necessary to do so for the benefit of the child.

The Marquis of Salisbury protested against the use which had been made of the name of Lord Cairns, whose authority was so great in that House. He knew that at the end of last session his late noble friend had expressed his horror of this Bill and his wonder that it had ever passed the House of Commons. He asked their lordships to dismiss from their minds all that Lord Cairns had assented to by way of compromise when the Bill had reached that House. It was impossible to exaggerate the importance of the decision at which they had arrived, because it was a decision which might affect the happiness of any married man who had the misfortune to be a widower. A man might be exposed to interference to which he had never been exposed before. It became them, therefore, to watch whether the securities were sufficient to save a father, against whom there might be no complaint, from undue and improper interference. The language of the noble and learned lords was very different from that of the Bill, and if their language could be imported into the Bill he should not have so much objection to it. The Bill said nothing of the cases to which the Lord Chancellor had referred, or of a father who wilfully corrupted his children's mind. It allowed a wife by a will secretly made and locked up in her desk, to appoint any guardian or guardians, male or female, who were to have equal power with the father in everything which appertained to the bringing up and management of the children. What security was there that the wife would exercise such a power wisely? There might be a case where a woman living in loneliness, subject to the influence of mischievous or gossiping persons, misled by false stories, or guided by mistaken spiritual advisers, might exercise this power in circumstances which would make it improbable that she was exercising it wisely. The mother would have the power of projecting into the family of the father two representatives of her own who would have the right of determining how the children should be educated. Let their lordships consider what cases might arise. There might be the case of a Catholic or a Protestant mother, the father being of the opposite religion. Or there might be a very Low Church father and a very High Church wife, and the latter might appoint two High Church guardians, who would proceed to bring up the children in a manner wholly opposed

to the wishes of the father. The Bill would enable the wife to exercise after her death a power which she could not have exercised when living. The two guardians appointed by her would obtain a power which she never possessed, and however odious they might be to the father, she, being dead, would be incapable of retracting what she had done. Constant squabbling would be going on between the father and the guardians as to what faith the children should be brought up in, as to what morality should be enforced, and as to what should be considered right and what should be considered wrong. The morals and faith of the children would be utterly wrecked if they saw those who had the power of bringing them up differing on every point. He was aware the answer would be that this was not to take place unless a Court deemed it necessary and desirable. No doubt there was a great deal of majesty in a law court, and his noble friend thought he had disposed of every question when he said it would be decided by a Court. For his own part, however, he was not an absolute believer in the divinity of a Court. If they laid down in an Act of Parliament what they required to be done, no doubt the Judges would give effect to their wishes ; but if a Judge were to decide, without any guidance whatever, whether he would set aside the nomination of guardians by the mother, the decision would be left absolutely to the accidents of his own individual disposition. The Judge's intentions might be good, but then he might be a man with peculiarities. For instance, he might think that religion was not of much importance. He had been treating the matter on the supposition that the High Court would have to decide the question, but under the provisions of the Bill a County Court Judge would have the power of forcing guardians into a family at the will, perhaps, of a wicked, an infamous, or a frivolous wife. (Hear, hear.) He could not conceive that their lordships would with light hearts make such a revolution in all English families as was shadowed forth by this Bill. (Hear, hear.)

Earl Granville said the noble marquis, after warning their lordships against allowing their minds to be influenced by the opinion of Lord Cairns, proceeded to state that the noble lord had expressed a strong opinion against the Bill. If he were not much mistaken Lord Cairns never in public expressed opposition to this measure. His lordship

told them, indeed, that it was a Bill which required very great care and attention with regard to its details. ("Hear, hear" from the Opposition.) He therefore acted upon that opinion, and suggested that it should be referred to a Select Committee, as a member of which he took immense pains to improve the Bill. The noble marquis remarked on the danger of giving to the wife a sort of posthumous power of overruling her husband with regard to the selection of guardians, and he anticipated what the answer would be—viz., that the words of the clause showed that there was no such power. The whole argument of the noble marquis went against the enormous jurisdiction which existed at the present moment in the Court of Chancery with regard to the guardianship of children. If the Court was not to be trusted unless specific rules were laid down for its guidance, the powers which it possessed already were wholly unjustifiable. The noble marquis further objected to the jurisdiction of the County Court in these matters, but he would point out that it was in the option of either party to go to the County Court, or require the case to be taken to the higher Court; and even where a case was decided by a County Court Judge there would be an appeal to the highest Court.

Lord Bramwell pointed out that by the 5th clause of the Bill the wife would have the power to go to the Court in the lifetime of her husband, and it occurred to him that unless some such provision as that under consideration were inserted, the wife, if she had reason to be dissatisfied with her husband, would be almost driven to go to the Court in his lifetime.

Lord Limerick's motion was negatived without a division. A further amendment, moved by Lord Inchiquin, for the omission of the whole of the sub-section to which Lord Limerick's motion was an amendment, was, on a division, beaten by a majority of 14, Contents, that the sub-section stand part of the clause, 42, Not Contents, 28.

Earl Beauchamp then moved the amendment upon which Earl Cairns had been defeated in the Select Committee, limiting the right of the mother to apply to the Court for an order with regard to the custody of her children to cases in which the father and mother are separated by deed or decree of a Court or otherwise. He explained that the amendment was strongly advocated by the late Lord Cairns,

when the Bill was before the Select Committee. If some such alteration were not introduced into the clause, a mother would be able to make an application to the Court upon any frivolous pretext. To prevent such occurrences the power of applying to the Court ought to be limited to cases where the parents had separated. Under the clause as it stood husbands would be at the mercy of their wives, should the latter choose to carry their domestic quarrels into Court.

Lord Fitzgerald opposed the amendment. There was no public expression on the part of Lord Cairns as to the proposal contained in the clause. Was it not a shocking thing that this right should not be given to the wife unless she was divorced or lived separately from her husband?

Lord Bramwell said that by the clause as it stood when the husband and wife were living together the wife might require the Court to make an order, the effect of which would be to transfer the control of the children, which the father now rightly possessed, to both father and mother. That would be a dual control of the most vicious kind. The reason why this right was given to the wife when divorced or living separately, was that she was no longer a member of the household, and then it might be proper that she should have a voice in the management of the children. When husband and wife were separated in that way there was no increase of scandal in her going to the Court. What he remembered that great lawyer and consummate Judge, whose loss he so much regretted, did when the Bill came before the House, was that he objected to it on the ground that every little quarrel between husband and wife which might otherwise be easily made up would enable her to rush off to the Court.

Lord Brabourne opposed the amendment on the ground that the whole basis of the Bill was to give the mother a greater share of authority over the management of the children.

The House divided, and the numbers were—For the amendment 28, Against 30, majority 2.

The report of amendments was then agreed to, and the third reading fixed.

The narrow majority by which Earl Beauchamp's proposal was defeated, made it perfectly certain that strenuous efforts would be

made to mutilate the Bill upon third reading, and both sides prepared diligently for the fray.

On the 30th April the Bill was read a third time, and on the motion that the Bill do pass, Lord Stanley of Alderley renewed the effort made by Lord Inchiquin upon report, for the omission of the whole provision enabling a mother to appoint a guardian to act jointly with her husband after her death.

On this occasion the amendment was negatived without a division.

Lord Norton then moved to insert the following proviso :

"But no such provisional appointment of guardians to act with the infant's father shall take effect unless confirmed by the Court upon evidence sufficient in its judgment to prove that the father is unfit to be the sole guardian."

Lord Fitzgerald hoped their lordships would not accept the amendment. A dying mother anxious for the welfare of her children would naturally wish to nominate a guardian to act with the father if she knew that the latter was not a competent person to provide for the welfare of his offspring. If the amendment were agreed to, a guardian so nominated would not be able to act unless a Judge should be satisfied that the father was absolutely unfit to fulfil his paternal duties, and this condition precedent might fail to be established in cases where it would yet be of the greatest importance for the welfare of the children that the mother's guardian should be accepted as the father's coadjutor.

Lord Inchiquin supported the amendment. If it were inserted in the clause the principle would be recognized that the father was the person primarily responsible for the welfare of his children, and that he had a right to be their sole guardian (hear, hear) unless proved before a court of competent jurisdiction to be unfitted to exercise the right. If this principle were not established in the Bill, a guardian nominated by the mother would in almost every case be confirmed in his position by the Courts of law if appeal was made to them, for Judges would be loth to disregard the wishes expressed by a mother on her death-bed. The dual control of father and guardian which the clause contemplated would work well in very few cases indeed.

The Lord Chancellor said that if the sub-section of the claus

had been omitted an important class of cases would have been left wholly unprovided for. He was bound to admit that the amendment would not have that result, but the reason why it was better to provide for that class of cases in the manner proposed by the clause than by the amendment might be stated very shortly. In the first place, it was not plain how the Court would deal with the word "unfit," and whether it would not lay on the person making the application a burden greater than ought to be done. Secondly, and connected with the same idea, there might be circumstances not of the gross character to which reference had been made and not involving moral unfitness on the part of the father which might make it highly desirable and almost necessary for the welfare of the infant that a guardian should be associated with him. Suppose there was a father, not a profligate or drunkard, but inpecunious, hiding here and there to avoid his creditors and unable out of his own means to provide for his children. In the present state of the law with regard to the property of married women the case was much more likely to occur than before. The mother might have to provide out of her own means for the maintenance of the children, and at her death might dispose of those means for that purpose and desire to appoint a guardian to act with the father. He was not at all sure that the court would say that such a case came under the meaning of the word "unfit." But he was quite sure that the court would say that it was desirable that the guardian, if a fit and proper person had been appointed by the mother, should be associated with the father.

The Marquis of Salisbury said that he felt that in discussing this question they were likely to fall into a fallacy if they were to imagine that it was possible in the majority of cases for the guardian to act with the father. He would be appointed against what the father conceived to be his rights, and would be received as an invader in the house. The children would be subjected to what had been called, with reference to political events, "dual control," and to all the evils attributed to that form of government. (Hear, hear.) On every point the two influences would struggle. If there was a question of religion they would have the father teaching Protestantism and the guardian Roman Catholicism, or *vice versa*, or the father teaching Low Church doctrines and the guardian High Church doctrines, with

the effect not that the child would take its choice, but that he would learn to disbelieve both. Again, with regard to morals. One view of life would be presented by the father, another by the guardian, and the child would not adhere to one or the other, but would take the negative result, and treat the question of morals as unimportant. The noble and learned lord told the House that "unfitness" was a thing very difficult of proof, and therefore the father was to be ousted of his rights, not upon proof, but upon suspicion. (Hear.) Then his noble and learned friend on the woolsack spoke of the uncertainty of construction to which words would be exposed. That was true. The court often applied to words a very different construction from what might have been intended by their author. Lord Cairns passed one of the most important measures with respect to real property which had been passed for many years. That measure was brought before the court in a case which had attracted general attention, and Lord Cairns told him that the decision at which the court had arrived in that very carefully-drafted Act of Parliament was the reverse of what was intended. When the noble and learned earl told the House that the interpretation of the word "unfit" would occasion very great difficulty, would not the interpretation of the word "desirable" also be difficult? He was old-fashioned enough to believe that by the law of nature and the law of God the father was the person who ought to have the care of his child, and that to disestablish the father altogether of his rights and to say that the judge should act solely with reference to his own view of the welfare of the infant, would be to disregard rights held sacred from the beginning of our polity and resting on far deeper foundations than most of those which we deemed firmly established. He hoped that the amendment, which had been drawn in a spirit of compromise, would be accepted by the House. (Hear.)

The amendment was withdrawn, but

Lord Inchiquin moved the insertion of the following words, "If it be shown to the satisfaction of the court that the father is, for any reason, unfitted to be the sole guardian of his children."

Their lordships divided, and the numbers were—For the amendment 69, Against 53, majority 16.

Lord Beauchamp then moved the amendment upon which he

had been defeated at the previous stage of report by a majority of 2. He said that clause 5 ought to be carefully considered, as it gave the Court an unlimited power respecting the management of children, even in the lifetime of the father. As the clause stood, a quarrelsome or vindictive wife might take proceedings against her husband with respect to the children, and heavy costs might be incurred. How were these costs to be borne? The clause would be productive of much mischief and tend to promote matrimonial differences unless it were safeguarded as Lord Cairns had proposed to safeguard it. He would, therefore, move as an amendment the introduction of words limiting the operation of the clause to cases when the husband and wife were separated either by decree of the Court or by deed.

Lord Fitzgerald objected to the amendment on principle. It was not necessary that there should be a quarrel between husband and wife for the intervention of the Court to be invoked. There might be reasonable differences of opinion, not inconsistent with amicable relations between the parties which could only be satisfactorily settled by the Court. The amendment was against the policy of the law, which did not encourage, and, indeed, for a long time did not recognize, separation of husband and wife; and it was a hard thing to impose as a condition precedent to the grant of relief in such cases to a wife that she should leave her home and children.

Lord Bramwell was surprised at the arguments of his noble and learned friend. The clause was a mischievous one as it stood. There might be nothing wrong in the husband's conduct; yet, because his wife entertained different views from him as to the bringing up of the children, he was to be subjected to the annoyance and expense of legal proceedings. There was no justification for interfering with the present law. No doubt there were petitions in favour of this clause, but, as he had often said, it was the discontented who petitioned, and though those who were satisfied with the existing law might be the overwhelming majority, they were not heard of. He had asked the opinion of a learned Judge who had as large an experience in his judicial capacity of matrimonial differences as any man, and his learned friend said, "If two men ride on one horse one must ride in front." He declared that rather than pass the clause in its present form he would hand over to the mother the whole

government of the house and children. He did not intend to say anything uncivil of women, or to suggest that they were particularly prone to mischief; but undoubtedly this clause would give a wife great power of worrying her husband. He might not only have to pay his own costs in proceedings which she instituted, but probably the costs of his wife, for counsel and solicitors were in divorce proceedings regarded as "necessaries," for which the husband was liable. This would really add another to the terrors of matrimony. (Laughter.)

Lord Brabourne strongly objected to this amendment, for it afforded an inducement to a wife to separate from her husband by providing that she should only be entitled to this remedy provided that she was separated. (Hear.)

The House divided, and the numbers were—For the amendment 35, Against, 69, Majority 34. The amendment was therefore lost.

Lord Fitzgerald then moved to insert the following new clause :—"In England and Ireland the High Court of Justice, in any division thereof, and in Scotland either division of the Court of Session, may, in their discretion, on being satisfied that it is for the welfare of the infant, remove from his office any testamentary guardian, or any guardian appointed or acting by virtue of this Act, and may also, if they shall deem it to be for the welfare of the infant, appoint another guardian in place of the guardian so removed."

The clause was agreed to.

Lord Bray moved the following new clause :—"Nothing in this Act shall prejudice the sole authority of the father as now recognized by law in the matter of the religious education of his children."

Lord Fitzgerald hoped the noble lord would not press the amendment, as he thought it would be introducing into the measure a dangerous element. It was a well-settled principle, and he hoped it would not be shaken, that the children should be brought up in the religion of their father. There was nothing at all in the Bill to derogate from that, and he thought the amendment entirely unnecessary.

Lord Stanley of Alderley supported the amendment.

The House divided and the numbers were—For the new clause, 7, Against it, 56, Majority against 49.

The motion that the Bill do pass was then agreed to.

It has been thought worth while to give these discussions so much at length to illustrate the idea of masculine and still more, of marital supremacy which, in the House of Lords no less than in the House of Commons, animated the opponents of the measure, whose spirit and temper are best illustrated by the noble marquis who boasted that "he was old-fashioned enough to believe that by the law of nature and the law of God the father was the person who ought to have the care of his child," regardless of the fact that the law of nature gives *two* parents to every child, and that the object of the Bill was simply and solely to bring the law of the land into conformity with the law of nature.

Yet such was the strength and earnestness of the friends of the Bill in the House of Lords, that in spite of all the efforts of its zealous foes, the only material alteration made in the measure during its passage through the Lords was the substitution in sub-section 2, of clause 3, of the words "if it be shown to the satisfaction of the Court that the father is for *any reason* unfitted to be the sole guardian of his children," for the words, "if satisfied that such appointment is necessary or desirable for the welfare of such infant." This change which prevents the appointment by the mother of a guardian to act jointly with her husband after her death from taking effect except in cases of proved necessity, commends itself nevertheless to the judgment of many of the warmest friends of the Bill, since they argue that either surviving parent is the natural guardian of the child, whose authority ought not to be interfered with except in cases of the gravest necessity, and that although the law is still unequal in permitting the prerogative of the father to assert itself after his death in the imposition of a co-guardian upon the mother, whilst securing to him in the like case his full parental rights, it is yet better to accept this temporary inequality, in the hope of soon correcting it, by the limitation of the paternal prerogative, than to perpetuate the present injustice by extending this unjust power to the mother.

The success of the Bill in the House of Lords must be attributed chiefly to Lord Fitzgerald and the then Lord Chancellor, to both of whom the devoted thanks of every mother are due. To the Lord Chancellor (Lord Selborne) in particular, the married women of

these islands owe a debt never to be forgotten or cancelled, since to his personal efforts they are so largely indebted, not merely for the boon of the Married Women's Property Act of 1882,—but the dearer acknowledgment of their parental rights in their own children. Nor can the circumstances under which these services were rendered be forgotten, demanding, as they do, a special fervour of gratitude.

Private grief for a sudden and irreparable loss was not allowed to interfere with the effort to help suffering mothers. Lord Selborne's first appearance in the House of Lords after the death of the wife to whom he was devotedly attached, was made on the 21st of April, in support of the Infants Bill.

"They that sow in tears shall reap in joy," and the sacred sorrow transmuted into tenderness for others who suffer, served to secure for mothers this measure of justice, and for Lord Selborne the affectionate reverence of those who profit by his labours.

It has been thought well to add as an appendix, the collated lists of divisions, both in the House of Lords and in the House of Commons,—from which the action taken by each member of either House can be seen at a glance.

The *Times* of May 8th, in the course of a long leader adverse to the measure :—"The Bill this year comes down from the Lords to the Commons, but it will find the Commons more busy than ever upon affairs of a more pressing kind. Its friends will have their hands full. Its opponents will be as keen as before. If four months are again needed to insure its passage—and it was only by accident that four months were enough—the outlook is not hopeful for it. Its best chance is that it may be accepted in a modified form. As a measure of redress for the admitted wrongs of wives and mothers, it may pass unopposed. *But it must be a good deal lightened, and some obnoxious matter removed from it, before it can claim such a reception.* Its friends may do well, therefore, to consent to a change which they do not approve on its own account, and to sacrifice some parts of the Bill in the interest of the rest."

This forecast was so far correct that the obstructives succeeded in delaying the passing of the measure for another year, but it is instructive to note that no further concession, or sacrifice of any part of the Bill was found necessary, the only alterations afterwards made

being either extensions of its scope, or additions necessary for its simpler and more effective working. With such additions the Bill of 1885 is now the law of the land.

The Bill was sent down to the Commons on May 1st, but the same obstructive forces which defeated the Bill in 1884 were again set in motion with such effect as to delay the second reading till August 3rd, or, rather, till the morning of August 4th, when, at 5 a m., after the House had been sitting thirteen hours, 54 votes were given for the Bill to 17 against it. The "block" was at once put on again, and no further stage of the Bill was allowed to be taken. The three gentlemen chiefly responsible for the maintenance, in opposition to the wish of the large majorities of both Houses of Parliament, of the unjust and cruel law which the Infants' Bill sought to amend, were Mr. Ince, Mr. Onslow, and Mr. Warton.

Again and again its Parliamentary sponsors put down the Bill for a promising day, and again and again the obstructive force, thanks to the unbusinesslike modes of procedure still the rule and practice of the House of Commons, proved too persistent and too watchful. It is painful now to read over the anxious correspondence of those three months, during which the Bill was in a state of suspended animation and when all who were working and waiting for it, hoped against hope in vain, whilst the obstructive group continued deaf and blind to every influence and every persuasion.

During the Session, every effort was put in motion for the education of our legislators, 192 petitions, with 9,401 signatures, were presented to the House of Commons, and an almost equal number to the House of Lords.

Amongst these, it may be well to specify the admirable petitions from members of the University of Cambridge, due to the kind efforts of Miss Kennedy, and those from the East of London, due to the zeal of Miss Jessie Craigen and the Working Women's League.

At length on the 14th of August came the prorogation, followed immediately by the dissolution.

From the first moment at which a general election had appeared imminent, the efforts of the friends of the measure had been redoubled in the hope of securing a still more substantial Parliamentary majority. Further pamphlets, leaflets and circulars were issued,—

including several revised and enlarged editions of former publications.

Memorials to Candidates, who had supported the Bill in the previous Parliament were, in many cases, prepared and presented, thanking them for their previous aid, and asking support in the future. Amongst these, two noteworthy ones were presented to Mr. Gladstone from Midlothian, one signed by women only, the other by his constituents thanking him in particular for having personally interested himself in the Bill and given it the support of the Government.

When Memorials were not found available, members were questioned on the subject, frequently at public meetings, but still more frequently and effectually by letters from personal friends or acquaintances. To the many ladies who gave most effective help in this manner,—the thanks of all who rejoice in the final success of the measure are deeply due—to the Personal Rights Association hearty thanks are also due for their valuable aid in the constituencies of Mr. Ince and Mr. Onslow. They had their reward ; for when the final tale was told, it was found that there were in the new House of Commons no fewer than 336 known friends of the Bill, and but 51 known opponents.

Under these circumstances, it was felt that only the unscrupulous abuse of the forms of the House could prevent the speedy passing of the bill into law. Of the former group of opponents, Mr. Warton had not been a candidate, Mr. Onslow had been defeated in the Poplar division by a majority of 1,977, but Mr. Ince had been returned for East Islington by a majority of 34. As it was therefore felt that, without the effective aid of the Government, the folly of one man might again triumph over reason and justice, and the wish of the majority of the House, it was resolved to use every effort to secure the adoption of the Bill as a Government measure. This course was warmly approved and supported by Lord Fitzgerald and Lord Selborne ; who exerted themselves actively to this end, and as the House of Commons' sponsors of the Bill had accepted office in Mr. Gladstone's new Ministry, the outlook was most hopeful. Unfortunately, although Mr. Bryce had been returned for South Aberdeen by a majority of 3,093, Sir Horace Davey had been defeated at Christchurch, and

being without a seat in Parliament could not as Solicitor General, carry through to its final triumph the measure for which he had worked so hard and so long.

The Bill was first introduced by Mr. Bryce at the beginning of the Session, but Mr. Gladstone having cordially acceded to the request made to him that it should be made a Government measure, the order for it was discharged, and on the 12th of March, the bill was re-introduced in the form in which it left the Lords in 1885, [by Mr. Attorney General (Sir C. Russell), The Lord Advocate, (The Right Hon. J. B. Balfour), Mr. Secretary Childers, and Mr. Bryce. It was read a second time without a division and almost without debate on April 2nd, and on April 16th, the House having gone into Committee on the Bill,

Mr. Donald Crawford, on the clause which confers on the mother her right of guardianship after the father's death, moved the insertion of the words, "and in case the father shall have died prior to the passing of this Act then from and after the passing of this Act," the effect of which is to confer guardianship rights on mothers widowed before the 25th June, 1886. The amendment was opposed by Mr. Tomlinson and Mr. Gregory, but was embodied in the Bill.

Mr. Edwards-Moss on the clause empowering the mother of an infant to apply to the Court for an order as to its custody, moved the insertion of the words "and the right of access thereto of either parent," which was accepted by Mr. Bryce to make the meaning of the clause more clear.

After the other clauses were agreed to, Mr. Ince, who chose now, after all his vexatious opposition, to pose as the friend of mothers, proposed a new clause, to enable the Court, in pronouncing a decree for separation, or a decree nisi or absolute of divorce, to declare the offending parent "unfit to have the custody of the children of the marriage," and thus exclude him or her from the guardianship rights, otherwise accruing on the death of the innocent parent. The Lord Advocate, having suggested some verbal amendments, accepted the clause, which now stands as clause 7 of the Act. The Bill then passed through Committee, and safely weathered the stage of Report on May 3rd, or rather in the early morning of May 4th.

The Bill was read a third time and passed on May 6th, and

was sent up to the Lords, where it was taken charge of by the Lord Chancellor, (Lord Herschell) who, on May 17th, moved the second reading in a speech of clear and simple explanation. No opposition was offered on this occasion, but a suggestion by Lord Bramwell as to the needful provision for costs of proceedings having been approved by the Lord Chancellor, the Bill was read a second time.

On May 25th, their Lordships went into Committee on the Bill, and after a brief discussion, the words "and make such order in respect of the guardianship as to the Court shall seem right," were added to clause 3.

On clause 5, the old contest was revived by Lord Ashbourne, who contended that under this clause "it would be quite competent when the father and mother were living together, for the mother having different views from her husband as to how the children should be brought up to ask the opinion of the Court as to whether she or the husband were right." After denouncing this power as dangerous, and tending to promote litigation, confusion, and unhappiness in families, Lord Ashbourne moved an amendment which would have limited the wife's power to cases in which she was living apart from her husband. Lord Bramwell supported the amendment, which was opposed by the Lord Chancellor, and finally, by leave, withdrawn.

On the motion of the Lord Chancellor, words were introduced in clause 5 to meet the difficulty as to costs raised by Lord Bramwell on the second reading. The remaining clauses were agreed to, and the Bill passed through Committee.

On the 31st of May the Infants' Bill was read a third time and passed; but owing to the peculiar circumstances of the Session, did not receive the Royal assent till June 25th, the day of prorogation, when it was selected for special approval in the Queen's speech, and came into operation at once.

Thus, at length, was secured to the mothers and children of these islands some considerable portion of that measure of justice for which their friends, in and out of Parliament, had worked so strenuously.

During this final Session, the Government having adopted the

Bill, its friends felt the support of petitions to be less necessary. Nevertheless, 139 petitions, with 6,144 signatures were presented to the House of Commons, in its support, and a like number to the House of Lords. It will be seen, therefore, that during the three years agitation, petitions with upwards of 90,000 signatures were presented in favour of this amendment of the law, and not one in opposition to it.

During the same period, there passed through Mrs. Elmy's hands and were distributed, nearly half a million leaflets and upwards of 40,000 pamphlets. Some of these were distributed at public meetings and otherwise, but by far the larger number were sent through the post, Mrs. Elmy having communicated in this manner during each of the three years, with more than 10,000 persons,—with many of them several times during the same year,—in addition writing personally more than 6,000 letters. Besides this, Mr. Carlaw Martin printed and circulated in Scotland, a large number of leaflets and pamphlets and together with Miss Thérèse C. Simpson gave most generously both of time and earnest labour, to ensure the success of the special Scottish work, which they initiated and conducted. But by far the most effective part of the propaganda was carried on by those persons who made it their especial duty to inform their own Parliamentary representatives, and their personal friends in both Houses. It is impossible here to thank by name each of those numerous friends and fellow-workers, but where many gave generous help, Sir T. Edwards-Moss cannot be forgotten, as having specially aided the Bill at every dangerous crisis. Mr. and Mrs. E. H. Busk, Miss Anne I. Robertson, Mrs. Alice Scatcherd and Mrs. Agnes Sunley also never failed to prove themselves devoted friends of the good cause.

Since the passing of the Act, Mrs. Elmy has distributed 1,500 copies of it, in quarters likely to make its beneficial provisions widely known. She has, moreover, received applications for advice under the Act in 65 cases, the great majority of which have been happily settled without the need of an appeal to the Courts—an evidence of the truth of the contention of its promoters, that so far from provoking litigation, its best results would be found in the amicable settlement of disputes, which under the grievous state of the

unamended law, might have led to the doing of injustice by the one side and the suffering of oppression on the other.

It is obvious that so much solid work could not have been done, without a substantial expenditure of money as well as of time and trouble. Yet Mrs. Elmy's total expenditure, exclusive of the cost of printing and circulating this Report, has amounted to but £765, towards which sum she has received, through the kindness of the friends whose names and gifts will be found recorded in the subjoined subscription list, the total amount of £755 15s.; foremost amongst these generous friends were the late Mr. Samuel Morley, and those surviving active friends of every cause of humanity and justice, Mrs. Russell Carpenter, Mrs. Streatfield, and Mrs. Taylor, of Wark-on-Tyne, to whom warmest thanks are here tendered for their constant sympathy and devoted help from the beginning to the end of the agitation. Various Scottish friends, whose names do not appear in these pages, also contributed through Mr. Martin and Miss Simpson, to the expenses of the special Scottish propaganda.

But no expenditure of money, and no action outside Parliament could have availed to secure so considerable an amendment of the law, but for the energy and devotion of friends of justice amongst the members of both Houses. The division lists subjoined bear testimony to the active sympathy shown by many, and the special services rendered by others have been gratefully acknowledged in the preceding pages. It will be seen that members on both sides of the House, and of all shades of political opinion, combined to secure for mothers and children this considerable meed of justice. Yet it is to the lasting honour of the Liberal party that the foremost champions of this reform were to be found amongst its ranks, and it is the special distinction of Mr. Gladstone and his last administration, that they adopted the Bill as a Government measure, and secured its final success, at a time when the delay of another Session, might have meant a delay of several years, and when, without this efficient help from the Government, such delay was inevitable.

It only remains here to thank the House of Commons' sponsors of the Infants' Bill, Mr. James Bryce, Sir Horace Davey, and Mr. George Anderson, whose devotion to justice, courage, patience

and persistence were the efficient uses of the progress and final success of the measure.* Reference has been earlier made in these pages to the great services rendered by Sir Horace Davey in another kindred cause, whilst every friend of the higher education of women knows how much it owes to the unfailing sympathy and support of Mr. Bryce, a support first given when friends were few, and foes many, and never since withdrawn and relaxed.

This brief summary of their work with regard to the Infants Act can only tell a part of the tale, and give the mere result of efforts, the full cost of which those only can estimate, who know what it is to give, out of a life already overcrowded with work, night after night, hours of patient waiting till and through the early morning, for the sake of advancing another step, and yet another, to the final goal. May they have the full reward which alone they would value, the consciousness that many human lives are daily happier, and a nobler ideal of justice is ever being realized, because they have lived and worked.

What then is the actual effect of the change in the law brought about by the passing of the Infants Act?

Briefly summarized, the changes made in the law are broadly these :—

1. A mother, upon the death of her husband, becomes now, by law, the guardian of her child or children, and no appointment by the father can set aside her right. She becomes *sole* guardian, when no other guardian has been appointed by the father, and *joint* guardian should any such appointment have been made, and this applies equally to the case of every mother, *widowed before the passing of the Act*, whose children are yet within the age of legal infancy. She can only be deprived of this, her natural and now her legal right, by the action of the Court,—which may, in pronouncing a decree of judicial separation or divorce, declare the offending party unfit to have the custody of the children. In such a case, the parent, *whether husband or wife*, whose misconduct has led to the separation or divorce,

* Mr. Anderson's valuable services were only lost to the Bill by his transference to a sphere of activity which withdrew him from Parliament.

will not be entitled as of right to the custody of the children on the death of the other parent.

2. A mother may, now and henceforth, equally with a father, appoint a guardian or guardians to act as such, after her own death and that of her husband, and where guardians are appointed by both parents, they will act jointly.

3. A mother may also *provisionally* appoint a guardian or guardians to act jointly with her husband after her own death; but the Court, after her death, will only confirm such an appointment, in case it be clearly shown that the father is, *for any cause whatever*, unfit to be the sole guardian of his children.

4. The advantages of the measure are extended to the poor, as well as to those rich enough to have recourse to the superior Courts, since cases under the Act may be heard by the County Courts in England and Ireland, and the Sheriff Courts in Scotland.

5. The Act throughout consistently keeps in view the *welfare of the child* or children as the main determining factor in cases of irreconcilable differences between the parents.

6. By far the most important provision of the Act is however that (clause 5) which enables the mother herself, even whilst living with her husband, as well as when separated from him, or after his death, to apply to the Court, on any question affecting the custody of her child or children, or the right of access to them, and which directs the Court, in deciding upon such an application, to have "regard to the welfare of the infant, and to the conduct of the parents, and to the wishes *as well of the mother as of the father*."

An able lawyer, writing on this clause,* has well said "This last sentence is probably the severest criticism that could have been passed upon the proceedings of our Law Courts hitherto. Posterity will observe with amazement that in the year 1886, it was necessary to instruct the Courts that a mother has sometimes "wishes" regarding her children, and that if so, some attention is to be paid to them. It remains to be seen whether judges will do as they have been directed to do, or whether they will still cling to the effete tradition that the mother is sunk in the wife, and that the wife is

* *Westminster Review*, Sept. 1887. "The Law in relation to Women."

merely the property of the husband. At all events, they cannot in future plead that they have no power, and are bound by the barbarous precedents of former ages."

It must be remembered in this connexion, that the original principle of the Infants' Bill was destroyed when in Committee, the House of Commons struck out the provision that "The parents of any infant shall, during the continuance of their marriage, be its joint guardians;" and that the select Committee of the House of Lords negatived the proposal to restore that provision.

The clause now under consideration was introduced, in Committee of the Commons, to effect, as far as might be practicable, what would have been effected, had the Bill become law in its original form, by the legal recognition of the just principle for which the promoters of the Bill have always contended, and do now contend, the co-equal parental rights of both parents.

The framers of the clause contend, that it takes practically, a very long step in the direction of the assertion of equality of rights, and the zeal shown by the opponents of the measure in both Houses in endeavouring to restrict the application of the clause to cases where husband and wife were living apart, shews clearly that they understood its full significance.

It remains to be seen, whether the Courts will give full effect to the intention of the clause, and by such a liberal construction create practically the joint guardianship so much to be desired in the interests of justice and humanity. Yet, without the intervention of the law courts, it has been abundantly proved that the existence of this clause has already had a beneficial effect in a large number of cases, by securing such a full consideration of the claims and wishes of the mother, as would not otherwise have been given. In this way the clause, though wholly wanting as a declaration of principle, does yet implicitly recognize that principle, and is steadily preparing the way for its final triumphant establishment.

It is manifest that the Act, whatever its defects, is yet a solid and comprehensive measure of justice, and as this amount of success has been achieved by the efforts of comparatively a few persons, working without organization or financial means, and from no standpoint of vantage, but with a firm resolve that the cruel injustice of

the law towards mother and children should be set right, it is certain that an earnest attempt, carried forward with equal zeal and patience, to remedy the other wrongs, from which women, and especially women as wives, continue still to suffer, could not fail of speedy success. If the perusal of these pages should stimulate others to kindred work in this direction, their purpose will have been abundantly served.

STATEMENT OF RECEIPTS AND EXPENDITURE from SEPTEMBER 7th, 1883,
to DECEMBER 31st, 1887.

Dr.		Cr.	
	£ s. d.	£ s. d.	
To Subscriptions and Donations -	755 15 0	By Printing - - - -	355 0 2
„ Sales of Pamphlets and Papers -	5 3 9	„ Grants and payments for local work -	123 11 10
, Balance - - - -	4 1 3	„ Parliamentary Papers, Bills, Acts, Newspapers, Press agencies -	47 13 2
		„ Postage, Telegrams, Carriage -	238 14 10
	£765 0 0		£765 0 0

ELIZABETH C. WOLSTENHOLME ELMY.

SUBSCRIPTIONS AND DONATIONS.

From September 7th, 1883, to December 31st, 1887.

	1883.			1884.			1885.			1886.			1887.		
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
Albright, Arthur, Esq.	2	0	0							3	1	0			
Anderson, Mrs. ...				1	0	0	1	0	0	2	0	0			
"A Grateful Widowed Mother" ...										2	0	0	0	5	0
Anonymous ...										0	10	0			
Abney-Walker, Miss ...										0	12	6			
E. N. & T. B. ...										0	10	0			
Brooke, Miss Edith ...				5	0	0	20	0	0	10	0	0	25	0	0
Bayly, John, Esq. ...							10	0	0				25	0	0
Boucherett, Miss Jessie				5	0	0	5	0	0				2	0	0
Bright, Mrs. Jacob ...							5	0	0	2	0	0	2	0	0
Busk, Mr. & Mrs. ...				1	1	0	3	3	0	2	2	0			
Blake, Mrs. ...							5	0	0						
Browne, Mrs. S. W. ...							2	0	0	2	0	0	1	0	0
Budgett, Mrs. W. H.										5	0	0			
Buchan, Dowager Countess of ...				2	0	0				2	0	0			
Bigg, Mrs. Louisa ...							2	2	0	2	2	0			
Barran, Mrs. ...										2	2	0			
Byron-Smith, Mrs. W. H. ...										2	2	0			
Beurle, Mr. and Mrs.							1	1	0	1	1	0			
Bruce, Mrs. ...				1	0	0				1	1	0			
Bruce, Miss M. L. ...													1	0	0
Boddy, Miss Clarinda				1	0	0	1	0	0	1	0	0			
Bottomley, Mrs. ...							1	0	0	1	0	0			
Buss, Miss ...										1	1	0			
Biggs, Miss C. A. ...										1	1	0			
Bright-Clark, Mrs. Helen P. ...													1	1	0
Beeby, Miss ...													0	10	0
Burbury, Mrs. ...				0	5	0									
Beard, Mrs. ...										0	3	0			
Bowrey, Miss ...													0	2	6
Bostock, W. Esq. ...							0	1	0						
Bishop, Mrs. ...										0	1	0			
Capel, Miss M. ...													0	10	0
Carpenter, Mrs. Russell	5	0	0	10	0	0	30	0	0	5	0	0			

	1883.	1884.	1885.	1886.	1887.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Cowen, Mrs. Ann ...		5 0 0	1 0 0		
Carroll, Mrs. ...	1 1 0	0 10 0	0 10 0	1 10 0	
Clough, Miss A. J. ...		1 1 0		2 1 0	
Cobbe, Miss F. P. ...	1 0 0	1 0 0			
Colfex, Mrs. ...		1 0 0	2 0 0		
Colfex, W. Esq. ...			2 0 0		
Cox, Henry, Esq. ...				1 1 0	
Colby, Mrs. ...			0 10 0	1 0 0	0 10 0
Cory, Mrs. ...				1 0 0	
Corbridge, Mrs. ...			1 0 0		
Clarke, Mrs. Pickering		0 5 0	1 0 0		
Coomara, Swamy,					
Lady ...				0 10 6	
Cash, Mrs. ...				0 10 0	
Cochrane, Mrs. Mary			0 5 0	0 5 0	
Chadwick, Mrs. ...		0 5 0			
Chesson, Mrs. ...				0 3 0	
Corfield, Miss Emma			0 2 6	0 2 6	
De Noailles, Countess		20 0 0			
Dewes, Rev. Dr. ...				1 1 0	
Dowson, Mrs. ...				0 10 0	
Dawson, Mrs. ...			0 5 0		
De Hersant, Mrs. ...				0 5 0	
Dukinfield Branch of					
Secular Society ...				0 5 0	
Edwards-Moss, Sir T.					
Bart. ...			5 0 0		
Fagan, Mrs. ...			0 10 0	1 0 0	
Fisher & Co., Messrs.				0 2 6	
Forster, Miss Dora ...			0 5 0	0 1 0	
Ford, Mrs. Benson ...				0 5 0	
Ford, J. R., Esq. ...					20 0 0
"From a Friend" ...				1 0 0	
"Friends" per Mrs.					
Livens ...				0 2 6	
"Friend" per Dr. F.					
Hoggan ...					1 0 0
Goldsmid, Lady ...		5 0 0	5 0 0	5 0 0	5 0 0
Garnett, Mrs. ...					20 0 0
Grey, Mrs. William ...			2 0 0		
Graveley, Mrs. ...		0 5 0	0 10 0		
Grace, Miss ...		0 5 0	0 2 6	0 5 0	
Gibb, Mrs. ...				0 10 6	
Gaskell, Mrs. ...				0 10 0	
Gillson, Mrs. ...					1 0 0
Glaisyer, Mr. Edward				0 5 0	
Goff, Miss ...					5 0 0

	1883.	1884.	1885.	1886.	1887.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Holland, Mrs. ...				5 0 0	
Holland Miss Mabel ...				5 0 0	
Hobhouse, Lord ...		1 0 0	2 0 0		
Hunter, Mrs. Stephen- son ...	1 0 0	1 1 0	1 1 0	1 0 0	0 10 0
Hayes, Mrs. ...		2 0 0			
Hervey, The Misses ...			2 0 0	2 0 0	
Heatherley, Mrs. ...		1 10 0			
Hutchinson, Miss R. P.		0 2 6		0 10 0	
Heywood, Mrs. Abel (the late) ...			0 10 0		
Holdsworth, Mrs. R.				1 0 0	
Hennell, Miss S. S. ...				0 10 0	
Hare, Mrs. ...			0 5 0		
Hindley, Mrs. ...				0 5 0	
Harvey, Edmund, Esq. ...	0 5 0				
Hall, Miss ...					0 2 6
Hibbert, Miss ...					0 2 6
Illingworth, Mrs. Alfred		1 0 0	5 0 0	5 0 0	
Impey, Mrs. ...				0 2 6	
Jex-Blake, Dr. Sophia				1 0 0	
Jolly, Mrs. ...			1 0 0	2 0 0	
Jones, Mrs. R. Cromp- ton ...		0 10 0	0 10 0	0 10 0	
Kennedy, Miss ...		0 10 0			
Lowe, Mrs. ...				2 2 0	
Leech, Mrs. ...		1 0 0	0 10 0		0 10 0
Laye, Mrs. Ramsay ...		1 0 0	1 0 0		
Levy, J. H. Esq. ...			1 1 0		
Lindsay, Miss ...					0 10 0
Livens, Mrs. ...			0 2 6	0 7 6	
Lowry, Miss A. F. ...			0 2 6		
Morley, S. Esq., (the late)...	25 0 0	25 0 0	25 0 0		
Munro-Ferguson, Mrs. E. ...		5 0 0			
Munro-Ferguson, Miss				5 0 0	
Mensbier, Mrs. Mary				2 0 0	
M'Kinnel, Mrs. ...			0 10 0	1 0 0	
Mander, Miss Amy F.	1 1 0				
Mawson, Mrs. ...			0 10 0		
M'Ilquham, Mrs. ...			0 7 6		
Mitchell, Dr. Julia ...			0 10 0		
M'Dowall, Miss ...			0 5 0	0 6 0	
Merrifield, Mrs. ...			0 5 0		
Nichol, Mrs. E. P. ...				5 0 0	5 0 0
Newman, Professor ...				2 0 0	

	1883.	1884.	1885.	1886.	1887.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Newcombe, Mrs. H. H.				1 0 0	
Noel-Woods, Mr. and Mrs. W. ...				0 5 0	
Neligan, Miss ...				0 5 0	
Osler, Follett, Esq. ...			5 0 0	2 0 0	
Ogden, Mrs. ...		2 0 0	2 1 0	1 1 0	
Ogilvie, Mrs. ...			1 0 0	1 0 0	
Oates, Mrs. ...				2 0 0	
O'Connor, Miss ...			0 5 0		
Paton, Miss C. F. ...				3 0 0	
Pease, Mrs. Gurney ...				1 0 0	
Pennington, Mrs. ...			1 0 0		
Priestman, Miss M. ...				1 0 0	
Platt, Mrs. ...	0 5 0			0 10 0	
Pringle, Mrs. ...				0 10 0	
Price, Miss ...			0 5 0	0 5 0	
Paton, Mrs. James ...				0 5 0	
Purcell, Mrs. ...				0 4 6	
Perrier, Mrs. ...		0 2 6		0 2 6	0 2 6
Perry, Mrs. ...				0 2 6	
Phillips, Mrs....			0 7 6		0 5 0
Robberds, Rev. J. ...		2 0 0	5 0 0	5 0 0	
Rossetti, W. M., Esq.			0 5 0	0 5 0	
Ransom, Mrs. ...				1 1 0	
Rathbone, R. R., Esq.				1 0 0	
Ruth, Miss Clara ...				1 0 0	
Rigbye, Miss H. ...				0 10 0	
Richardson, Mrs. David				0 5 0	
Ride, Rev. G. ...				0 5 0	
Rowntree, Mrs. ...					0 5 0
Streatfield, Mrs. ...	5 0 0	25 0 0	5 0 0	15 0 0	
Smithson, Mrs. ...		2 0 0		2 0 0	
Sewell, Mrs. ...		1 0 0		2 1 0	
Swanwick, Mrs. ...				1 1 0	
Swanwick, Miss A. ...				1 1 0	
Smith, Mrs. Joseph ...		0 10 0	0 5 0	0 10 0	
Shaw-Stewart, J. M., Esq. ...			0 12 6		
Savile, Mrs. ...		0 5 0		0 5 0	0 5 0
Sturge, Mrs. and Miss				0 10 0	
Scott, Mrs. M. A. ...				0 7 6	
Sharpe, Miss ...		0 2 6		0 5 0	
Shove, Miss E. ...					0 2 6
Stimpson, F. Esq. ...				0 5 0	
Sherbrooke, Mrs. ...					0 5 0

	1883.	1884.	1885.	1886.	1887.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Tattersall, Mrs. ...					2 2 0
Taylor, Mrs. T. ...	5 0 0	10 0 0	15 0 0	5 0 0	5 0 0
Thomasson, J. P., Esq.					10 0 0
Thomas, Mrs. C. ...			0 5 0		
Thompson, Miss ...		2 0 0			2 0 0
Tebb, Mrs. ...			1 1 0	1 1 0	1 1 0
Tournier, Miss ...		0 1 0		0 2 0	
Tolmé, Mrs. ...			0 2 0		
Unwin, Mrs. E. ...			10 0 0	10 0 0	
Vaughan, Mrs. M. ...		0 5 0		0 5 0	
Winkworth, Mrs. Stephen ...		3 0 0	10 0 0	10 0 0	5 0 0
Wedgwood, Mrs. Godfrey ...		5 0 0		5 0 0	
Westgarth, William, Esq. ...		5 0 0			
Weir, J. G., Esq. ...			2 0 0	1 1 0	
Wheeler, F., Esq. ...				3 0 0	
Westlake, John, Esq.				2 2 0	
Williams, Mrs. Jessy...				1 1 0	0 5 0
Watson, Mrs. ...	0 2 6			0 10 0	
Watson, T. M., Esq. ...			0 10 0		
Wansey, Miss...			0 10 0		
Wates, Mrs. ...			0 10 0		
Wyles, Thomas, Esq...			0 10 0	0 10 0	
Wilkinson, Mrs. ...				0 10 0	
Wilkinson, Mrs. E. T.				0 5 0	
Wheeler, A., Esq. ...				0 4 0	
Ward, Miss ...				0 5 0	
Wright, Miss ...				0 2 6	

Received since the accounts were made up:—William Colfex, Esq., £5.

HOUSE OF COMMONS' DIVISIONS.

† voted for, 0 against the Bill.

The following explanation may perhaps be necessary to a full comprehension of the collated division lists hereto appended.

March 26th, 1884. Division on 2nd reading of the Bill—2nd reading carried, by 208 votes, against 73.

July 22nd, 1884. Division on clause 2, the vital principle of the Bill as introduced. Rejection of clause 2 carried, by 43 votes, against 19.

July 25th, 1884. On the proposal, that the new clause, (now clause 5 of the Act) be read a second time, Mr. Warton moved "That the chairman do report progress, and ask leave to sit again;" the object, of course, being to cause such delay, as, at that late period of the Session, might lead to the loss of the Bill. For the clause there voted, 42, against, 10.

July 29th 1st Division. On the proposal "That the Bill be re-committed 'in respect of a new clause,'" Mr. Tomlinson proposed to leave out the words, "in respect of a new clause," the effect of which would have been to exclude from the Bill the one clause which did recognize the parental right of the mother during her husband's life-time. Defeated by 44 to 5.

July 29th. 2nd division. Mr. Warton proposed an amendment to limit the mother's right to appoint a guardian to cases in which she was living with her husband, so that an innocent wife, who had obtained a separation or divorce from a guilty husband, would have been punished by depriving her of the power, conferred by the Bill, of appointing a guardian to act after her own death, and that of her husband. Defeated by 32 to 2.

July 31st, 1884. Mr. Warton renewed his attempt to limit the mother's right to appoint a guardian to cases in which she was living with her husband, but was beaten by 61 votes to 2.

August 3rd, 1885, properly speaking, 5 a.m., on the morning of *August 4th*. Division on the 2nd reading of the Bill, sent down after 6 divisions by the Lords on May 1st, but delayed by the mere obstructive caprice of 3 men, Mr. Ince, Mr. Onslow, and Mr. Warton. Second reading, carried by 54 to 17.

In the House of Commons' divisions, tellers are not counted, and their names do not appear in order in the Division Lists. The tellers for the Bill in every division in the Commons, were Mr. Bryce and Sir Horace Davey.

Names in Italics are those of Members of the House of Commons at the present time, January 1888.

	1884.					1885.	
	March	July	July	July	July	July	Aug.
	26.	22.	25.	29.	29.	31.	3.
<i>Acland, C. T. Dyke-</i>	†	o					
Agnew, W.	-					†	
Ainsworth, D.	-	†				†	
Alexander, Major Gen.	o						
Anderson, G.	-	†	†	†	†		
Archdale, W. H.	-	o					
Armitage, B.	-	†		†	†	†	†
Armitstead, G.	-	†					
Arnold, A.	-	†	†	†	†	†	†
<i>Asher, A.</i>	-	†	o	†	†	†	†
Ashley, Hon. E. M.	-	†	†				
<i>Ashmead-Bartlett, E.</i>	-						o
Aylmer, J. E. F.	-			o	o	o	
<i>Balfour, Sir G.</i>	-	†					
<i>Balfour, Rt. Hon. J. B.</i>	-	†	o	†	†	†	†
<i>Barclay, J. W.</i>	-	†					
Baring, T. C.	-	†					
<i>Barran, J.</i>	-		o			†	
<i>Barttelot, Sir W. B.</i>	-	o					
<i>Barry, J.</i>	-	†					
Bass, Sir A.	-		o				
<i>Bass, Hamar</i>	-		o	†			o
Baxter, Rt. Hon. W. E.	†						
Beresford, G. Dela Poer							o
<i>Biddulph, M.</i>	-	†					
<i>Biggar, J. G.</i>	-	†		o			
<i>Birkbeck, Sir E.</i>	-	o					
Blackburne, Col. J. I.	-	†					
Blake, J. A.	-	†					
Blennerhassett, R. P.	-	†				†	
<i>Bolton, J. C.</i>	-		o				
<i>Boord, T. W.</i>	-	o					
<i>Borlase, W. C.</i>	-	†					
Brassey, Sir T. (Lord)		o	†				
<i>Bright, Jacob</i>	-	†		†	†	†	
Brinton, J.	-	†					
Broadley, W. H. H.	-	o					

	March 26.	1884. July 22.	July 25.	July 29.	July 29.	1885. July 31.	Aug. 3.
<i>Brodrick, Hon. St. John</i>	†						
Brogden, A. -	†			†	†		
Brooks, M. -	†						
<i>Brown, A. H.</i> -	†					†	
Bruce, Rt. Hon. Lord C.			†			†	
Bruce, Sir H. H. -	o						
<i>Bruce, Hon. R. Preston</i>	†			†	†		†
<i>Buchanan, T. R.</i> -	†	o		†	†	†	
<i>Burt, T.</i> -	†					†	
Buszard, M. C. -	†						
Buxton, F. W. -						†	
<i>Buxton, S. C.</i> -	†					†	
<i>Burghley, Lord</i>							o
<i>Campbell, J. A.</i> -	o						†
<i>Campbell, R. F. F.</i> -	†						
Carbutt, E. H. -	†						
Carington, Hon. R. -			†				
Canston, R. K. -	†		†				
<i>Cavendish, Lord E.</i> -	†					†	
<i>Chamberlain, Rt. Hon. J.</i>	†						
Chambers, Sir T. -	†						
Cheetham, J. F. -	†	†		†	†	†	
<i>Churchill, Lord R.</i> -	†						
Clarke, J. C. -	o						
Clark, Stewart -	†						
Colebrooke, Sir T. E. -	†						
Collins, Eugene -	†						
Collins, T. -	o						
Colthurst, Col. -	†						
Coope, O. E. -	o						†
<i>Corbet, W. J.</i> -	†						
<i>Corbett, J.</i> -	†						
<i>Corry, J. P.</i> -	†						
Cotes, C. C. -	†	o	†	†	†	†	
<i>Courtney, L. H.</i> -	†	†	†	†	†	†	†
Cowen, Joseph -	†						
Craig, W. Y. -	o						
Crichton, Viscount -	o						
Cropper, J. -	†						
Cross, J. K. -	†						
(Lord Cross.)							
Cross, Rt. Hon. Sir R. A.	†						†
Crum, A. -	†		†				
<i>Cubitt, Rt. Hon. G.</i> -	†						
Cunliffe, Sir R. A. -	†						
<i>Currie, Sir D.</i> -	†						

	March 26.	July 22.	1884. July 25.	July 29.	July 29.	1885. July 31.	Aug. 3.
<i>Dalrymple, C.</i> -	o						†
<i>Davies, W.</i> -	o						
<i>Dawnay, Hon. G. C.</i> -	o						o
<i>Dawson, C.</i> -		o					
<i>Deasy, J.</i> -	†						
<i>De Ferrieres, Baron</i> -	†						
<i>De Worms, Baron H.</i> -	†						†
<i>Dickson, T. A.</i> -	†						
<i>Dilke, Rt. Hon. Sir C.</i> -	†		†	†			
<i>Dillwyn, L. L.</i> -		†	†				
<i>Dixon-Hartland, F. D.</i> -	o						
<i>Dodds, J.</i> -	†	o		†	†		
(Lord Monk-Bretton)							
<i>Dodson, Rt. Hon. J. G.</i> -		o					
<i>Douglas, A. Akers</i> -	o						o
<i>Duff, R. W.</i> -	†	o	†	†	†	†	
<i>Dyke, Rt. Hon. Sir W.</i> -							
<i>Hart</i> -							†
<i>Earp, T.</i> -						†	
<i>Ebrington, Viscount</i> -	†						
<i>Ecroyd, W. F.</i> -	†						
<i>Edwards, Passmore</i> -	†						
<i>Egerton, Hon. A. de</i> -							
<i>Tatton</i> -							o
<i>Elcho, Lord</i> -	†						
<i>Elliot, Hon. A. R. D.</i> -	†						
<i>Elliott, G. W.</i> -	o						
<i>Elton, C. I.</i> -	†						
<i>Errington, G.</i> -						†	
<i>Ewart, W.</i> -	†						
<i>Ewing, A. Orr</i> -	o						
<i>Fairbairn, Sir A.</i> -	o						
<i>Farquharson, Dr. R.</i> -	†		†	†	†		
<i>Fawcett, Rt. Hon. H.</i> -	†		†				
<i>Feilden, Lt. Gen.</i> -	o						
<i>Ferguson, Robert</i> -	†						
<i>Ferguson, R. C. Munro</i> -							†
<i>Ffolkes, Sir W. H. B.</i> -		o					
<i>Finch-Hatton, Hon. M.</i> -							
<i>E. G.</i> -	o						
<i>Findlater, W.</i> -	†						
<i>Firth, J. F. B.</i> -	†					†	
<i>Folkestone, Rt. Hon.</i> -							
<i>Viscount</i> -	†						
<i>Forester, C. T. W.</i> -	o						

	March	July	July	July	July	July	Aug.
	26.	22.	25.	29.	29.	31.	3.
<i>Forster, Sir C.</i> -	†						
<i>Forster, Rt. Hon. W. E.</i>	†						
<i>Fowler, Rt. Hon. H. H.</i>	†						
<i>Fowler, Sir R. N.</i> -	o	o				o	
<i>Fry, Lewis</i> -	†						
<i>Fry, Theodore</i> -	†						
<i>Garnier, J. C.</i> -	o						
(Lord Ashbourne)							
<i>Gibson, Rt. Hon. E.</i> -	o						
<i>Gladstone, H. J.</i>	†	o	†	†	†	†	†
<i>Gladstone, W. H.</i>	†						
<i>Goldney, Sir G.</i>	o						
<i>Gordon, Sir A.</i>	†						
<i>Gorst, Sir J. E.</i>	†						
<i>Grant, Andrew</i>	†						
<i>Grantham, W.</i> -	†						
<i>Gray, E. D.</i> -	†	o		†	†	†	†
<i>Gregory, G. B.</i>	o						
<i>Grey, A. H. G.</i>		†					†
<i>Grosvenor, Lord R.</i>	†	o	†	†	†	†	
<i>Gurdon, R. T.</i> -	†						
<i>Hamilton, Lord C. J.</i> -	†						
<i>Hamilton, Rt. Hon Lord</i>							
<i>G.</i> -	o						
<i>Hamilton, J. G. C.</i>	†						
<i>Hamilton, Ion. T.</i>	o						
<i>Hardcastle, J. A.</i>	†						
<i>Harrington, T.</i>							
<i>Harris, W. J.</i> -		o					o
<i>Hastings, G. W.</i>	†						
<i>Hay, Rt. Hon. Lord J.</i>	†						
<i>C. D.</i> -	†						
<i>Hayter, Sir A. D.</i>		o		†		†	
<i>Healy, T. M.</i> -	†	o	o				
<i>Henderson, F.</i> -	†			†	†		†
(Lord Herschell)							
<i>Herschell, Sir F.</i>		o	†	†	†	†	
<i>Herbert, Hon. Sidney</i>	o	o					o
<i>Hibbert, J. T.</i> -	†			†		†	
<i>Hill, Lord A. W.</i>	o						†
<i>Hill, A. S.</i> -	†						
<i>Hill, T. R.</i> -	†						
<i>Holden, I.</i> -	†	†	†			†	
<i>Holland, S.</i>	†						
<i>Hollond, J. R.</i> -						†	†

	1884.				1885.	
	March	July	July	July	July	Aug.
	26.	22.	25.	29.	29.	31. 3.
Holmes, Rt. Hon. H. -						†
Holms, J. -	†					
Home, Lt. Col. D. M. -	o					
Hopwood, C. H. -	†	o		†	†	
Howard, G. J. -	†					
Howard, J. -	†					
Hope, Rt. Hon. A. Beresford -	o					
Illingworth, A. -			†			
Inderwick, F. A. -	†					
Ince, H. B. -			o	o		o
James, C. H. -	†					
James, Rt. Hon. Sir H. -		o		†		
James, Hon. W. H. -	†					
Jardine, Sir R. -	†					
Jerningham, H. E. H. -	†					
Jones-Parry, Love -			†		†	
Kennard, C. J. -	†					†
Kennaway, Sir J. H. -						
Bt. -	†					
Kenny, M. J. -		o				
Kensington, Lord -	†		†	†	†	†
Kinnear, J. -	†	o	†	†	†	†
Laing, S. -	†					
Lambton, Hon. F. N. -	†					
Lawrence, J. C. -	o					
Lawson, Sir W. -	†		†	†	†	
Lea, T. -	†		†	†	†	†
Leake, R. -	†				†	
Leaky, J. -						†
Leamy, E. -	†					
Leatham, E. A. -	o					
Lechmere, Sir E. A. H. -	†					
Lee, H. -	†					
Lefevre, Rt. Hon. G. J. -						
Shaw- -	†					
Leighton, Sir B. -	†					
Levett, T. J. -	o					
Lewisham, Rt. Hon. Viscount -	o					o

		1884.				1885.	
		March	July	July	July	July	Aug.
		26.	22.	25.	29.	29.	31.
Lowther, J. W.	-	†					
Lusk, Sir A.	-	†					
<i>Lymington, Viscount</i>	-	†					
Lynch, N.	-				†	†	†
Lyons, R. D.	-	†					
Mackie, R. B.	-	†					†
<i>Mackintosh, C. F.</i>	-	†		†			
<i>M'Arthur, A.</i>	-	†					
<i>M'Carthy, Justin</i>	-	†	o				†
<i>M'Carthy, J. H.</i>	-		o				
M'Clure, Sir T.	-	†					
(Lord Magheramore)							
M'Garel-Hogg, Sir J.							
M., Bt.	-	o					
MacIver, D.	-	o					
M'Lagan, P.	-	†		†			
M'Laren, C. B. B.	-	†	†		†	†	
<i>M'Kenna, Sir J. N.</i>	-						†
<i>Makins, Col. W. T.</i>	-	o					
<i>Mappin, Sir F. T. Bt.</i>	-	†					
<i>Marjoribanks, Rt. Hon.</i>							
<i>E.</i>	-	†	o	†			†
Martin, R. B.	-	†					
<i>Maskelyne, M. H. Story</i>	-	†					
Mason, Hugh	-	†					
Maxwell-Heron, J.	-		o	†			
Maxwell, Sir H. E.	-	o					
Mellor, J. W.	-	†					
Mills, Sir C. H.	-	o					
<i>Molloy, B. C.</i>	-	†	o				†
Monk, C. J.	-	o					
Moore, Arthur	-			o			
<i>Morgan, Hon. F.</i>	-	o					
<i>Morgan, Rt. Hon. G. O.</i>	-	†					
<i>Morley, A.</i>	-	†					
<i>Morley, Rt. Hon. John</i>	-	†					
Mulholland, J.	-	†					
Muntz, P. H.	-	†					
<i>Mundella, Rt. Hon. A. J.</i>	-		o				†
Noel, Ernest	-	†	†		†		†
<i>Nolan, Col.</i>	-	†		o	†		†
<i>Northcote, Hon. H. S.</i>	-	†					†
Norwood, C. M.	-	o					

		1884.				1885.	
		March	July	July	July	July	Aug.
		26.	22.	25.	29.	29.	31. 3.
O'Brien, Sir P.	-	o					
O'Brien, W.	-	†					†
O'Connor, A.	-		o				
O'Connor, T. P.	-		o				†
O'Gorman, Mahon The	†						†
O'Kelly, J.	-						†
O'Shea, W.	-	†					o
Paget, T. T.	-			†	†		
Palmer, J. H.	-	†					
Parker, C. S.	-	†		†	†	†	†
Patrick, R. W. Cochran	†						
Pease, A.	-	†		†		†	
Peddie, J. D.	-	†	†	†		†	
Peel, Sir R.	-	†					
Pell, A.	-	o					
Pemberton, E. L.	-	o					
Pennington, F.	-	†					
Percy, Lord A.	-	o					
Phipps, Pickering	-	o					
Pictor, J. A.	-					†	†
Plunket, Rt. Hon. D. R.	o						o
Potter, T. B.	-	†					
Powell, W. R. H.	-	†	†	†	†	†	
Power, J. O'Connor	-	o					
Power, P. J.	-						†
Pugh, L. Pugh	-					†	
Puleston, J. H.	-	o					
Pulley, Joseph	-	†					
Ralli, Pandeli	-	†					
Rathbone, W.	-	†					†
Read, C. S.	-	o					
Redmond, W. H. K.	-	†		o			
Reid, T. B.	-	†					
Ridley, Sir M. W., Bt.	o						
Ritchie, Rt. Hon. C. T.	o						
Roberts, John	-	†	†				
Roe, T.	-	†				†	
Rogers, J. E. Thorold			†		†	†	
Ross, C. C.	-	†					
Round, James	-	†					
Russell, T.	-						†
Rylands, P.	-	†					

	1884.					1885.
	March	July	July	July	July	Aug.
	26.	22.	25.	29.	29.	31. 3.
<i>Salt, T.</i> - -	o					
(Lord Basing)						
<i>Sclater-Booth, Rt. Hon.</i>						
<i>G.</i> - -	o					
<i>Scott, M. D.</i> - -	†		o	o	o	
<i>Seely, C. (Lincoln)</i> -	†					
<i>Seely, C. (Nottingham)</i>	†					
<i>Sillar, A. Craig</i> -	†					
<i>Selwin-Ibbetson, Rt.</i>						
<i>Hon. Sir H., Bt.</i> -	o					
<i>Sexton, T.</i> - -		o	o			†
<i>Shaw, T.</i> - -	†		†			†
<i>Shiel, E.</i> - -		o	o	†		
<i>Shield, H.</i> - -	†	†				
<i>Simon, Sir John</i> -	†					
<i>Sinclair, W. P.</i> -						†
<i>Slagg, J.</i> - -	†	†				
<i>Small, J. F.</i> - -			o			†
<i>Smith, Lt. Col. G.</i> -	†		†	†		†
<i>Smith, Samuel</i> -	†					†
<i>Smith, Rt. Hon. W. H.</i>	o					
<i>Spencer, Hon. C. R.</i> -	†					
<i>Stafford, Marquis of</i> -	†					
<i>Stanhope, Rt. Hon. E.</i> -	o					
<i>Stanley, E. J.</i> - -	†					
<i>Stanley, Hon. E.</i>						
<i>Lyulph-</i> - -						†
(Lord Stanley of Preston)						
<i>Stanley, Rt. Hon. Col.</i>	o					
<i>Stansfeld, Rt. Hon. J.</i>	†					
<i>Stevens, J. C. M.</i> -						†
<i>Stevenson, J. C.</i> -	†			†	†	†
<i>Stone, G.</i> - -	o					
<i>Strutt, Hon. C. H.</i> -	†					
<i>Stuart, James</i> - -						†
<i>Sullivan, T. D.</i> -						†
<i>Summers, W.</i> - -	†			†	†	†
<i>Talbot, J. G.</i> - -	†					
<i>Tennant, C.</i> - -	†					
<i>Thomasson, J. P.</i> -	†					†
<i>Thompson, T. C.</i> -	o					
<i>Thornhill, T.</i> - -	†					
<i>Tomlinson, W. E. M.</i> -		o				
<i>Torrens, W. T. M.</i> -	†					
<i>Tottenham, A. L.</i> -	o					

	1884.				1885.	
	March	July	July	July	July	Aug.
	26.	22.	25.	29.	29.	31. 3.
<i>Villiers, Rt. Hon. C. P.</i>	†					
<i>Vivian, A. P. -</i>	†		†			
<i>Vivian, Sir H. H. -</i>	†					
<i>Waddy, S. D. -</i>	†					
<i>Walker, S. -</i>		o	†	†	†	
<i>Watkin, Sir E. W. -</i>	†					
<i>Warton, C. N. -</i>	o	o				
<i>Webster, Dr. J. -</i>	†					†
<i>Whitley, E. -</i>	†					
<i>Williams, S. C. Evans</i>	†					
<i>Williamson, S. -</i>	†					
<i>Willis, W. -</i>	o					
<i>Wilson, Isaac -</i>	o					
<i>Wilson, Sir M. -</i>	†					
(Lord St. Oswald)						
<i>Winn, Rowland -</i>	o					
<i>Wodehouse, E. R. -</i>	†					
<i>Woodall, W. -</i>					†	†
<i>Wortley, C. B. Stuart -</i>	†					†
<i>Yorke, J. R. -</i>	†					

HOUSE OF LORDS' DIVISIONS, 1885.

Some brief explanation may be necessary to the full comprehension of the subjoined collated lists.

April 21st. Division. Earl Beauchamp moved to insert in clause 2, after the words, "the mother if surviving," the limiting words "unless the father shall have by deed or will otherwise appointed," the effect of which would have been to retain the unjust power of the father to deprive the surviving mother, at his mere caprice, of her natural right of guardianship over her own child. The amendment was defeated by 40 votes to 5.

April 24th. 1st Division. Lord Inchiquin moved the omission of sub-section 2 of clause 3, the effect of which would have been to deprive the mother of the power proposed to be conferred upon her, of provisionally appointing a guardian or guardians to act with her husband after her own death. The amendment was defeated by 42 votes to 28.

April 24th. 2nd Division. Earl Beauchamp moved to insert at the beginning of clause 5 the words "When the father or mother of any infant are living separate under a separation by deed or decree of the Court or otherwise." The amendment aimed a deadly blow at the most important part of the Bill, the recognition of some right in the mother with regard to her own child, even though she might be living with its father. The amendment was defeated on this occasion by the narrow majority of 2 only, 30 to 28. But see division 2 of April 30.

April 30th. 1st Division. Lord Inchiquin moved the omission of certain words, and the insertion of the words, "If it be shown to the satisfaction of the Court that the father is for any reason unfitted to be the sole guardian of his children." The amendment was carried by 69 votes to 53, but on this point see page 42 of Report.

April 30th. 2nd Division. The narrow majority by which Lord Beauchamp's proposal on the 24th April, (2nd Division) was defeated, made it perfectly certain that strenuous efforts would be made to mutilate the Bill on third reading, and both sides prepared diligently for the fray. Lord Beauchamp moved the amendment on which he had been beaten by a majority of only 2, on April 24th, and was now beaten by 69 to 35 votes, many eminent Conservative Peers voting with the friends of the Bill on this occasion.

April 30th. 3rd Division. Lord Braye moved to insert, as a new clause, after clause 10, the following:—"Nothing in this Act shall prejudice the *sole authority of the father*, as now recognized by law, in the matter of the religious education of his children." The amendment was defeated by 56 votes to 7.

1885.

	April 21.	April 24.	April 24.	April 30.	April 30.	April 30.
Canterbury, Lord Archbishop	†			†	†	†
Earl of Selborne -	†	†	†	†	†	†
(Lord Chancellor)	-					
Bedford, Duke of -	†	†	†	†	†	†
Grafton, Duke of -	-	†		†	†	†
Norfolk, Duke of -	-			o	o	o
Northumberland, Duke of	-			o	o	
Richmond, Duke of	-	o	†	o	†	†
Rutland, Duke of	-			o	o	
Westminster, Duke of	-	†				
Bute, Marquis of -	-			†		
Northampton, Marquis of	-	†	†	†	†	†
Salisbury, Marquis of	-	o	o	o	o	
Ripon, Marquis of -	-	†	†			
Bathurst, Earl -	-			o		
Beauchamp, Earl -	-	o	o	o	o	
Bradford, Earl of -	-			o		
Cadogan, Earl -	-			o	o	
Camperdown, Earl of	-	†	†	†	†	†
Carnarvon, Earl of -	-			o	†	†
Cathcart, Earl -	-			o		
Cowper, Earl -	-			o		
Dartrey, Earl of -	-			o	†	
De La Warr, Earl -	-			o	o	
Derby, Earl of -	-	†	†	†	†	†
Ducie, Earl of -	-	†	†	†	†	†
Ellesmere, Earl of -	-			o		
Fortescue, Earl -	-	†	o	†	†	†
Granville, Earl -	-	†	†	†	†	
Harrowby, Earl of -	-	†	o	o	†	
Jersey, Earl of -	-			o	†	
Kimberley, Earl of -	-	†	†	†	†	†
Lathom, Earl of -	-			o	†	†
Malmesbury, Earl of	-			o	†	
Manvers, Earl -	-	o	o			
Mar and Kellie, Earl of	-			o	†	
Milltown, Earl of -	-	†	o	†	†	†
Morley, Earl of -	-	†	†	†	†	†
Northbrook, Earl of	-	†	†	†	†	†
Northesk, Earl -	-			o	o	
Onslow, Earl of -	-	o	o			

1885.

	April 21.	April 24.	April 24.	April 30.	April 30.	April 30.
Redesdale, Earl of -	-	†	o	o	o	†
Spencer, Earl -	-	-	-	-	†	†
Stanhope, Earl -	-	-	-	-	o	†
Sydney, Earl -	-	-	-	-	†	†
Yarborough, Earl of -	-	†	-	-	†	†
Cranbrook, Viscount -	-	†	-	†	o	†
Eversley, Viscount - (E. Aberdeen)	-	-	-	-	†	†
Gordon, Viscount -	-	†	-	-	†	†
Hardinge, Viscount -	-	-	-	-	o	†
Hawarden, Viscount -	-	-	o	o	o	†
Hood, Viscount -	-	-	-	-	o	-
Melville, Viscount -	-	-	-	-	o	-
Powerscourt, Viscount -	-	-	-	-	†	†
Sherbrooke, Viscount -	-	†	†	†	†	†
Sidmouth, Viscount -	-	-	-	-	o	-
Bangor, Lord Bishop of -	-	-	-	-	†	†
Bath & Wells, Lord Bishop of -	-	-	-	-	†	†
Chichester, Lord Bishop of -	-	-	-	-	†	-
Gloucester and Bristol, Lord Bishop of -	-	-	-	-	-	†
Hereford, Lord Bishop of -	-	-	-	-	†	†
Lichfield, Lord Bishop of -	-	-	-	-	†	†
Llandaff, Lord Bishop of -	-	-	-	-	o	†
London, Lord Bishop of -	-	-	-	-	†	†
Oxford, Lord Bishop of -	-	-	-	-	†	†
St. Asaph, Lord Bishop of -	-	-	-	-	†	†
St. David's, Lord Bishop of -	-	-	-	-	o	†
Winchester, Lord Bishop of -	-	-	-	-	†	†
Aberdare, Lord -	-	-	†	†	†	†
Alcester, Lord -	-	-	-	-	†	-
(Viscount Holmesdale)	-	-	-	-	-	-
Amherst, Lord -	-	-	-	-	o	†
(Viscount Bury)	-	-	-	-	-	-
Ashford, Lord -	-	-	o	o	-	-
Arundel of Wardour, Lord -	-	-	†	-	-	-
Auckland, Lord -	-	†	†	†	o	†
Balfour of Burleigh, Lord -	-	-	-	-	o	-
(E. Cork and Orrery)	-	-	-	-	-	-
Boyle, Lord -	-	-	†	†	-	-

		1885.					
		April	April	April	April	April	April
		21.	24.	24.	30.	30.	30.
Brabourne, Lord	-	-	†	†	†	†	†
Bramwell, Lord	-	-	†	†	o	†	†
Braye, Lord	-	-	†		o	o	o
(E. Breadalbane)							
Breadalbane, Lord	-	-			†	†	
Calthorpe, Lord	-	-				†	o
Carlingford, Lord	-	-	†	†	†	†	†
Chelmsford, Lord	-	-			o	o	†
(E. Roden)							
Clanbrassil, Lord	-	-	†		o	†	o
(E. Clanwilliam)							
Clanwilliam, Lord	-	-	†	o	o	o	
Clifford of Chudleigh, Lord	-	-		o	o	o	o
(Earl Darnley)							
Clifton, Lord	-	-			o		
Clinton, Lord	-	-			o		
Colchester, Lord	-	-	o	o	o	o	
Colville of Culross, Lord	-	-				o	
Crewe, Lord	-	-				†	
De Ros, Lord	-	-		o	o	o	
De Vesci, Lord	-	-			†		
Denman, Lord	-	-			o	o	
Donington, Lord	-	-		o	o	o	
Dorchester, Lord	-	-	†				
(E. Home)							
Douglas, Lord	-	-		o			
Ellenborough, Lord	-	-	o	o	o	o	
Erskine, Lord	-	-		†	†	†	†
Fitz-Gerald, Lord	-	-	†	†	†	†	†
Forester, Lord	-	-			o		
(E. Limerick)							
Foxford, Lord	-	-	o	o	o		
Gerard, Lord	-	-		o	o	o	
Greville, Lord	-	-	†				
Harlech, Lord	-	-			o		
Harris, Lord	-	-			o		
(L. Henniker)							
Hartismere, Lord	-	-			o		
Hatherton, Lord	-	-		†	†		
Hothfield, Lord	-	-	†		†	†	†
Hylton, Lord	-	-		o	o	o	
Inchiquin, Lord	-	-	†	o	o	o	
Kinnaird, Lord	-	-				†	
(E. Kintore)							
Kintore, Lord	-	-			o		

		1885.					
		April 21.	April 24.	April 24.	April 30.	April 30.	April 30.
Lamington, Lord	-				o	o	
Leconfield, Lord	-				o		
Lyttelton, Lord	-	†	†	†	†	†	†
Lyveden, Lord	-				o	†	†
Monk Bretton, Lord	-				†		
Monson, Lord	-	†	†	†	†	†	†
Monteagle of Brandon, Lord	-		†	†	†	†	
Mount-Temple, Lord	-		†				
Norton, Lord	-	†	o	o	o	o	†
Oranmore and Browne, Lord	-	o	o	o	o	o	
Poltimore, Lord	-		†	†	o	†	†
(E. Bessborough)							
Ponsonby, Lord	-						†
Raglan, Lord	-					o	
(E. Dalhousie)							
Ramsay, Lord	-	†	†	†	†	†	†
Ribblesdale, Lord	-		†	†	†	†	†
Robartes, Lord	-					†	
(E. Rosebery)							
Rosebery, Lord	-		†	†	†		
Rowton, Lord	-	†	†	o			
Saltoun, Lord	-				o		
Sandhurst, Lord	-				†	†	†
(V. Barrington)							
Shute, Lord	-		o	o	o	o	o
Stanley of Alderley, Lord	-		o	o	o	o	o
Stratheden & Campbell, L.	-		†	o			
(V. Enfield)							
Strafford, Lord	-	†	†	†	†	†	†
Strathnairn, Lord	-		o	o			
Sudeley, Lord	-		†	†	†	†	†
(E. Arran)							
Sudley, Lord	-	†			†	†	†
(D. Argyll)							
Sundridge, Lord	-	†	†				
Talbot de Malahide, Lord	-				o		
Thurlow, Lord	-	†	†	†	†	†	†
Tweedmouth, Lord	-				o		
Ventry, Lord	-	†	o	o	o	o	
Watson, Lord	-	†	†		†		
(E. Wemyss)							
Wemyss, Lord	-		o		o	o	†
Winmarleigh, Lord	-					†	†
Wrottesley, Lord	-				†	†	†
Wynford, Lord	-	†			†		
Zouche of Haryngworth, Lord	-				o		

The words printed in Italics show the changes made in the House of Commons in 1886, upon the Bill as it left the House of Lords in 1885, and those printed in Italics and underlined, the changes made subsequently in the House of Lords.

AN ACT

TO AMEND THE LAW RELATING TO THE GUARDIANSHIP AND CUSTODY OF INFANTS.

49 & 50 Vict.

CHAPTER 27.

[25th June, 1886.]

WHEREAS it is expedient to amend the law relating to the guardianship and custody of infants : A.D. 1886.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited as the Guardianship of Infants Act, 1886. Short title.

2. On the death of the father of an infant, *and in case the father shall have died prior to the passing of this Act then from and after the passing of this Act*, the mother if surviving shall be the guardian of such infant, either alone when no guardian has been appointed by the father, or jointly with any guardian appointed by the father. When no guardian has been appointed by the father, or if the guardian or guardians appointed by the father is or are dead, or refuses or refuse to act, the Court may, if it shall think fit, from time to time appoint a guardian or guardians to act jointly with the mother. On death of father, mother to be guardian alone or jointly with others.

3. (1.) The mother of any infant may by deed or will appoint any person or persons to be guardian or guardians of such infant after the death of herself and the father of such infant (if such infant be then unmarried), and where guardians are appointed by both parents they shall act jointly. Mother may appoint guardian, in certain cases.

(2.) The mother of any infant may by deed or will provisionally nominate some fit person or persons to act as guardian or guardians of such infant after her death jointly with the father of such infant, and the court, after her death, if it be shown to the satisfaction of the court that the father is for any reason unfitted to be the sole guardian

of his children, may confirm the appointment of such guardian or guardians who shall thereupon be authorized and empowered so to act as aforesaid, or make such other order in respect of the guardianship as the court shall think right.

(3.) In the event of guardians being unable to agree upon a question affecting the welfare of an infant, any of them may apply to the court for its direction, and the court may make such order or orders regarding the matters in difference as it shall think proper.

Powers of guardian.

4. Every guardian in England and Ireland under this Act shall have all such powers over the estate and the person, or over the estate (as the case may be), of an infant as any guardian appointed by will or otherwise now has in England under the Act twelve Charles the Second, chapter twenty-four, or in Ireland under the Act of the Irish Parliament fourteen and fifteen Charles the Second, chapter nineteen, or otherwise

Court may make orders as to custody.

5. The court may, upon the application of the mother of any infant (who may apply without next friend), make such order as it may think fit regarding the custody of such infant and the right of access thereto of either parent, having regard to the welfare of the infant, and to the conduct of the parents, and to the wishes as well of the mother as of the father, and may alter, vary, or discharge such order on the application of either parent, or, after the death of either parent, of any guardian under this Act, and in every case may make such order respecting the costs of the mother and the liability of the father for the same or otherwise as to costs as it may think just.

Power to Court to remove guardian.

6. In England and Ireland the High Court of Justice, in any division thereof, and in Scotland either division of the Court of Session, may, in their discretion, on being satisfied that it is for the welfare of the infant, remove from his office any testamentary guardian, or any guardian appointed or acting by virtue of this Act, and may also, if they shall deem it to be for the welfare of the infant, appoint another guardian in place of the guardian so removed.

Guardianship in case of divorce or judicial separation.

7. *In any case where a decree for judicial separation or a decree either nisi or absolute for divorce, shall be pronounced, the Court pronouncing such decree may thereby declare the parent by reason of whose misconduct such decree is made to be a person unfit to have the custody of the children (if any) of the marriage; and, in such case, the parent so declared to be unfit shall not, upon the death of the other parent, be entitled as of right to the custody or guardianship of such children.*

Application of Act to Scotland.

8. In the application of this Act to Scotland the word guardian shall mean tutor, and the word infant shall mean pupil.

Interpretation of terms.

9. In the construction of this Act the expression "the Court" shall mean—

In England the High Court of Justice or the county court of the district in which the respondent or respondents or any of them may reside :

In Ireland the High Court of Justice or the county court of the district in which the respondent or respondents or any of them may reside :

In Scotland the Court of Session or the sheriff court within whose jurisdiction the respondent or respondents or any of them may reside.

Any application under this Act to the High Court of Justice in England or to the High Court of Justice in Ireland shall be made to the Chancery Division of the said Courts respectively in such manner as may be prescribed by Rules of Court.

In Scotland the expression "the Court of Session" shall mean either division of the said court, and in vacation the Lord Ordinary on the Bills.

10. In England and Ireland when any application has been made under this Act to a county court the High Court of Justice shall, at the instance of any party to such application, order such application to be removed to the High Court of Justice and there proceeded with before a Judge of the Chancery Division, on such terms as to costs as it may think proper. As to removing proceedings and appeals.

In England and Ireland an appeal shall lie to the High Court of Justice from any order made by a county court under this Act; and, subject to any rules of court made after the passing of this Act, any such appeal shall be heard by a judge of the Chancery Division of the High Court of Justice at chambers or in court, as he shall direct.

In Scotland any application made under this Act to a sheriff court may be removed to the Court of Session, at the instance of any party, in the manner provided by and subject to the conditions prescribed by the ninth section of the Sheriff Courts (Scotland) Act, 1877.

In Scotland an appeal shall lie to either division of the Court of Session from any order made by the Lord Ordinary on the Bills or a sheriff court under this Act. 40 & 41 Vict. c. 50.

11. Rules for regulating the practice and procedure in any proceedings under this Act, and the forms in such proceedings may from time to time be made. Rules as to procedure.

(a) so far as respects the High Court of Justice or Her Majesty's Court of Appeal in England or Ireland by Rules of Court; and

(b) so far as respects the Court of Session in Scotland by Act of Sederunt; and

(c) so far as respects any county court in England or Ireland and the Sheriff Court in Scotland in like manner as rules and orders respecting those courts can respectively for the time being be made.

12. In Scotland tutors being administrators-in-law, tutors-nominate, and guardians appointed or acting in terms of this Act who shall, by virtue of their office, administer the estate of any pupil, shall be deemed to be tutors within the meaning of an Act passed in the twelfth and thirteenth years of the reign of Her Majesty, intituled "An Act for the better protection of the property of pupils, Tutors.

absent persons, and persons under mental incapacity, in Scotland," and shall be subject to the provisions thereof: Provided always, that such tutors being administrators-in-law, tutors-nominate, and guardians aforesaid shall not be bound to find caution in terms of the twenty-sixth and twenty-seventh sections of the last recited Act, unless the court, upon the application of any party having interest, shall so direct.

Saving clause.

13. Nothing in this Act contained shall restrict or affect the jurisdiction of the High Court of Justice in England, and of the High Court of Justice in Ireland, or of any division of the said Courts, and of the Court of Session in Scotland, to appoint or remove guardians, or (in the case of Scotland) tutors or factors loco tutoris or otherwise in respect of infants.

MORAL TRAINING
IN THE
PUBLIC SCHOOLS

By

JANE BROWNLEE

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May, 1908

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Address for copies

The HOLDEN PATENT BOOK COVER CO.

Springfield -:- Massachusetts

A PLAN FOR CHILD TRAINING

JANE BROWNLEE, *Principal*

I have been requested to describe minutely a plan for child training used in the Lagrange School, Toledo, Ohio, for the past seven years.

This plan was evolved slowly, and could never have become systematized, as it now is, but for the hearty sympathy of all the teachers of the school, and their never-failing co-operation with the principal in giving a fair trial to ideas suggested. There were many failures at first, and many fine theories were abandoned because a trial proved them impracticable. But failure only served to stimulate us to greater effort, for there was conviction on the part of those interested, that there is a new step to be taken in popular education—that is the recognition and development of the child's higher self; the awakening of the child to his higher powers, teaching him how to develop and use them, that the child may make life happy and successful.

Lagrange is one of more than forty ward schools in Toledo, is a fine building, comparatively new, and is beautified by a surrounding of magnificent old elm trees. There are fourteen large pleasant school rooms and a shop and a kitchen in the basement. The plan of the building is remarkably good because it tends to unification. On each floor the schoolrooms open into large halls with broad staircases, which bring all the pupils together in entering or leaving; an advantage over the old plan with its narrow, separated halls, through which the children pass single file. To encourage still more this spirit of unity, there is a large auditorium with a seating capacity of a thousand where the children are assembled for entertainments of all kinds not only for instruction and pleasure but also to learn how to conduct themselves in public places.

Between six and seven hundred pupils are enrolled, and the material is not more ideal than that of the average public school in any large city. It differs from some schools in this, that the children come from a great variety of homes. Some

are of wealthy parentage, large numbers are from homes of a thrifty class, there are many foreigners including Syrians, Poles, etc., a few negroes, and some poor little ones from "the alley."

This has been an advantage, for it proves that the higher self of the child can be touched and awakened, independent either of poverty or riches.

The children from the true home can be more easily reached, but the true teacher finds neither heredity nor environment unsurmountable obstacles.

In 1898, a course in psychology deeply impressed me with this truth: Thoughts are *things*. I was at the time teaching an eighth grade in Lagrange school, and was also principal of the building. It occurred to me that a practical application should be made of this truth: that boys and girls should be taught to value their thought power, and to use it in building character. From this thought there gradually evolved a plan for a series of five-minute talks to my own class at the opening of the morning session. The purpose of these little talks was to direct the attention of the pupils to certain truths: that they had the power to think: that they could use the power in any way they chose: that no one could think for them any more than he could eat for them: that their thinking made them, and that, therefore, their character, the kind of persons they were to be, depended solely upon themselves. They were led to see that it would be a great help in character building to take a short time alone each day, if only three or four minutes, and consciously let the mind dwell upon some good thought or lofty ideal.

One day a shy, thoughtful boy said to me, "I like what you've been telling us." "Do you like it well enough to try to live it?" "Yes," was the earnest reply, "I've made a promise to myself not to let a day pass without doing what you have advised, to sit alone and think a good thought." Other members of the class have since told me of the impression made by this, to them, new thought and of its influence upon their lives.

The following year I was relieved of class duties, and could devote my time to all the schools. The spirit in which my own class had received the little talks on thought power made me feel that all the children might be benefited by such instruction. It was put to the test, found practicable, and was gradually worked out into a systematized plan.

The children learned through these simple five-minute talks in the morning that the body is just a little house in which the real child lives. They learned that this body as

their house, is sacred and must be kept pure and clean. They learned why they eat food, and why plenty of sleep is necessary for growing children.

In the same way they learned that the mind is distinct from the body which it controls. That the mind, to be healthy, needs food just as the body does, but its food is quite different, their lessons forming the greater part of it.

Then they learned of the real child dwelling in the body and having the mind for its instrument: how this real self could not grow as it should in an unhealthy body and with an undeveloped mind: that if this real child were growing stronger day by day, it would show it in right thinking, and so the child by watching and controlling this wonderful thought power could grow into a strong, fine character, that not only would make his life happy, but a help to others instead of a hindrance.

Then followed lessons teaching him how to control and develop his thought power. A subject was chosen for the month, and the entire school concentrated upon it, using the first five minutes in the morning. An interesting proof of the power of this united mental action was given by the following experience. This work was independent of the regular school curriculum as planned by the superintendent. But it was finally recognized as a factor in school government, and a revision in the course of study allowed one period, once a month, for talks on ethics, and different subjects were assigned to the different grades. The work under this plan was a failure in our school. We found the periods were too far apart to hold the interest of the children, and the talks so long as to weary them. Only one thought at a time should be brought out, and *there should be as little said by the teacher as possible*, the purpose being to find out what the child thinks and direct his thinking.

The following plan was finally worked out, and has been used satisfactorily for several years in our own school, and for the past two years in Spring school, one of the other Toledo ward schools—namely: To select some word for each month of the year, and get the children to express their thoughts about the subject. The words selected were as follows:

For September	Kindness
October	Cleanliness
November	Obedience
December	Self-Control
January	Courtesy and Cheerfulness
February	Work

March	Honor
April	Honesty, Truthfulness and Clean Language
May and June	Manners, and review of the year

The first subject chosen, "Kindness," is divided into four parts, one for each week in the month. First, kindness to parents, the children's best friends; second, to teacher, next best friend; third, to brothers, sisters, companions and the world in general; fourth, to animals.

To begin; such leading questions are asked by the teacher as, "Who are your best friends?" "Why?" To this there are ready replies by the younger children—"They work for us." "They give us food—clothes—a bed,"—and finally some child will give the highest and best reason, "They love us."

"How can you show your love for them?" They are taught that love manifests itself by kindness, the kind thought, the kind word, the kind deed. So they say, "I can wash the dishes for my mamma." "I can go to the grocery when she tells me to without whining." "I can get my papa's slippers for him when he comes home tired," etc. "Should you do all these things?"

One little girl said to her teacher after a week of the morning talks, "My mamma thinks I'm getting sick." "I can tell you why," said the teacher; "you obey her now and are kind to her." The child laughed and said, "Yes, that's it, I heard her tell my papa I was getting so good she was afraid I was sick."

Second week—"How can you be kind to teacher?" By yielding ready and cheerful obedience to school rules—by trying each day to do their best—by being unselfish and courteous, by keeping neat desks, etc.

In a study hour in one room when the school was very quiet a boy attempting to take something from his desk threw all its contents noisily to the floor. The teacher remarked quietly, "I think you have forgotten the thought for the day." I was in the room at the time, and asked, "What is the thought for the day?" The reply was, "Kindness to classmates." "What has dropping books from a desk to do with that," I inquired. The pupils were called upon to answer, which they did promptly. "It is not kind to disturb us." "An untidy desk does not set a good example." "The inspector may call, and this desk would bring a bad mark for the whole school," etc.

This conversation was kind in spirit and in word on the part of both teacher and pupils, so there was no sting in it

for the offender. He was not made to feel that he had committed a crime, but that he was guilty of a little carelessness which he could and would correct.

This talk of kindness to the teacher is a two-edged sword. A teacher who is expecting kindness from her pupils must feel that equal kindness should return from her to them, so day by day she, too, grows toward *her* highest.

The same plan is used during the third and fourth weeks. The work does not end with the five minutes in the morning, but the children are reminded of it during the day as occasion offers.

The talks for the fourth week are interesting, because the normal child loves animals. The pupils are taught that animals are a part of that one universal life force, which we see manifested all around us in wondrous diversity. They are led to consider the usefulness of creatures, their affection and fidelity; the pain *which can not be expressed* by an animal when abused—as when a boy stones a cat, or a horse beaten when doing all it can; how they add not only to our comfort, but to our pleasure, as the birds with their beauty and songs; their helplessness, which should appeal to the tenderness and protection of the children, and the thought expressed by a second-grade boy, “They’ve got just as good a right to live as we have.”

Often after a heavy rain, young birds are beaten from the nests, and the children carry them tenderly to their teacher, one proof that the little talks have made an impression.

In connection with each subject, appropriate gems are taught. One at a time is written on the blackboard where it remains until each pupil has committed it to memory.

“Little children, you must seek
Rather to be good than wise;
For the thoughts you do not speak
Shine out in your cheeks and eyes.”

“You never can tell what your thoughts will do
In bringing you hate or love;
For thoughts are things, and their airy wings
Are swift as carrier dove.
They follow the law of the universe—
Each thing must create its kind.
And they speed o’er the track to bring you back,
Whatever went out from your mind.”

“There’s nothing so kingly as kindness;
And nothing so royal as truth.”

"Kind hearts are the gardens;
Kind thoughts are the roots;
Kind words are the blossoms
Kind deeds are the fruits."

"You can not change yesterday, that is clear
Or begin tomorrow until it is here.
So the only thing left for you and for me
Is to make today as sweet as can be."

During the month in which a word is considered, it must be placed where the eye will frequently rest upon it: in every room it is prettily and conspicuously lettered upon the black-board in colored chalk.

To further attract attention, some of the older boys of Lagrange school made a banner, which was hung in the main hall where it was not only an ornament, but caught the attention at once on entering the building.

A frame, three and a half yards long and three-fourths of a yard wide was made of light wood; over this was stretched burlap of a soft, green shade, tacked on smoothly with bronze-headed nails, which gave an ornamental finish.

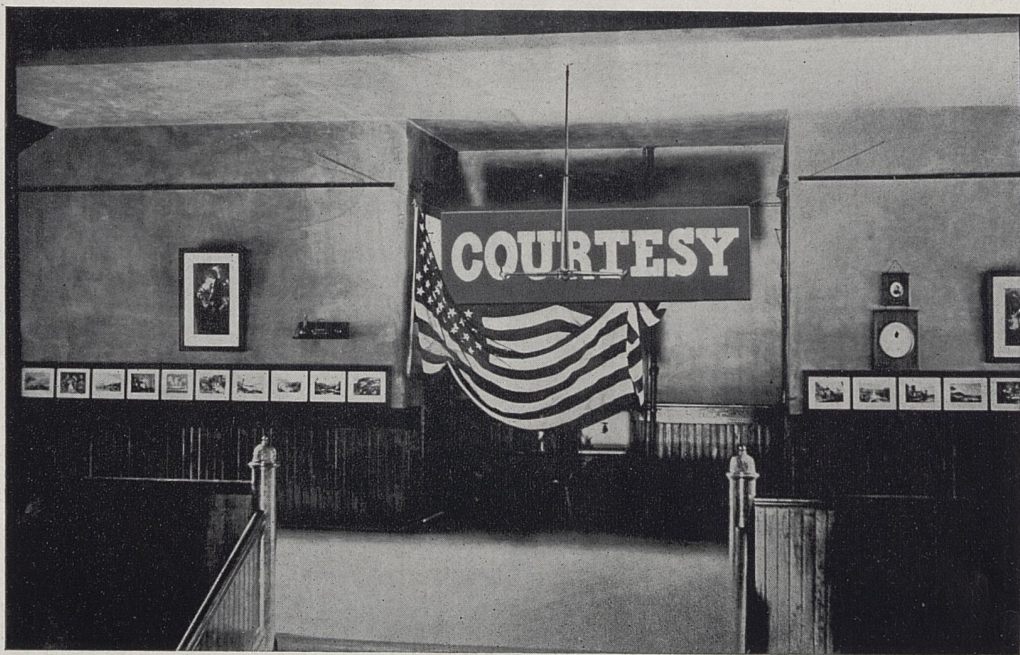
Letters, proportioned to the size of the banner, were cut out of stiff, white cardboard, and held in place by brass paper-fasteners. These were easily removed each month to be replaced by the new word. The expense of the banner is trifling, and it has proved very helpful in the work. When this new idea of a banner was planned, letters attached with paper-fasteners—the cost so trifling—it seemed at once that a "*System of Child Training*" had been completely evolved as the name on the banner each month produced a deep impression on teacher, scholar and visitor.

Following kindness, cleanliness is always considered, for the thought is brought out that the kind child will strive to be clean. This subject is divided into two parts—cleanliness of the body, and cleanliness of the mind. Two weeks are devoted to the consideration of each.

Simple hygienic talks are given, for in the average public school there is likely to be a fair percentage of the children who receive little care and no instruction pertaining to the body. For the second part, excellent lessons can be given by the teacher on the importance and value of clean thoughts in building character, which is the real purpose of each life.

Every human being is the sacred thought of God. God gives individuality, which each must develop into character.

The third subject is obedience. Obedience in the home; in the school; to the laws of health; to moral law.



PORTION OF HALL SHOWING BANNER

It seems best to take these three subjects first, and in this order; for if every child were kind, clean and obedient, there would be a fine foundation upon which to build.

After these three, the choice is varied from year to year as the need of the school seems to demand. Here is a suggestive outline:

December with its holidays is apt to be a distracting time for the pupils. Self-control is chosen and used topically.

What is self-control? Should it be cultivated? Why? What is my self-control? How can I cultivate it? If all the members of a family are self-controlled is the home happier? What is the effect of self-control in the school-room? Is it the duty of every one to cultivate self-control?

While the success of this work depends chiefly upon the teacher—upon his or her enthusiasm and depth of character, experience has shown that some subjects are more pleasing to the pupils and more impressive, because having a more manifest bearing upon daily conduct. Self-control is a favorite. The children very quickly give such a definition as, "It means to make yourself mind."

A fine boy, but hot-tempered and lacking in self-control, was one day placing the letters of the new word for the month. He had the banner on the floor and was arranging the letters preparatory to fastening them. A younger boy felt entitled to the privilege of "bossing the job" because his father had contributed the letters. He gave orders and expressed his opinion quite freely, and three times the older boy stopped his work and looked up at him. The teacher watched to see the outcome, but said nothing. Finally the younger boy, seeing that his advice was not taken, walked away. The older boy looked at the teacher in an amused way and said, "That self-control business is a pretty good thing for me. Twice I thought I'd lick that kid for being so bossy, but I said to myself, 'Thomas, hold on to yourself. Remember self-control.'"

A teacher from a neighboring city, visiting Lagrange school, was favorably impressed with the plan for developing thought, and decided to give it a trial in her own school. She explained the plan to her pupils, self-control was chosen for a beginning, and the word was printed in large letters upon the blackboard just behind the teacher's desk. The little morning talks imbued the children with the spirit of the word, and all was working well when the teacher became ill and a substitute was placed in charge of the school. The new teacher proved to be ill-tempered and wholly lacking in self-control. The days were spent in scolding and nagging disorderly pupils, the kind which such a school atmosphere produces.

One day just before the close of an unusually trying session, a quiet little boy raised his hand. "What do you want?" crossly snapped the teacher. "Look behind you," said the child pointing to "Self-control" on the blackboard. One can not help wondering about the effect of such a rebuke.

A child whose misfortune it was to have a teacher of the same kind as the substitute, said to her mother: "I get so tired of her yap, yapping all day long. She scolds all the time and tells the boys how bad they are, and they just like to see her get mad. You see her mother never taught her to control herself when she was little." What confidence or respect can such a teacher win?

Cheerfulness follows self-control, and is developed by topics.

Define. (The children should be asked for original definitions.) Can cheerfulness be cultivated? Should it be cultivated? Effect of your cheerfulness in the home? In the school? Should it be a duty or a pleasure or both to cultivate cheerfulness? When is it easy to be cheerful? When difficult? Which will make you a strong boy or girl—to be cheerful when it is easy, or when difficult? By cultivating cheerfulness can you thus express your love for your parents and your teacher?

Then gems on cheerfulness, such as:

"'Tis easy enough to be pleasant
When life flows along like a song:
But the man worth while is the one that will smile
When everything goes dead wrong.
For the test of the heart is trouble,
And it always comes with the years,
And the smile that is worth the praise of earth,
Is the smile that comes through tears."

A very practical and interesting subject is work.

Is work necessary? Make a list of the different kinds of work that you see going on about you, or of which you have heard or read. If everybody in the world refused to work, what then? Is it the duty of everyone to work?

All necessary work is honorable. Not *kind* of work, but quality, counts. No work too humble to be scorned or neglected. Work well done brings happiness. Much of your success and joy in life will depend upon the spirit in which your work is done. Does your work in school bear any relation to your work after you have left school? One of the world's greatest needs is honest, cheerful workers. A present duty neglected never brings future success.

Pupils are encouraged to look for quotations appropriate to the subject under consideration. Here are a few selected from many handed in upon the subject of work:

"No one can rise who slights his work."

"Honest work is the only sure thing."

"Our grand business in life is not to *see* what lies dimly at a distance, but to *do* what lies clearly at hand."

"Nothing is impossible to industry."

"Work is an educator of character."

"Nothing is so injurious as unoccupied time."

"Observe, then, all wise work is mainly threefold in character: it is honest, useful and cheerful."

"The modern majesty consists in work. What a man can do is his greatest ornament, and he always consults his dignity by doing it."

"Pleasure comes through toil and not by self-indulgence. When one gets to love work, his life is a happy one."

The subject "honor" follows work.

What is honor? Should honor be cultivated? Does it help to make a fine character or a weak one? What is character? What is reputation? Which would you rather have—a fine reputation or a fine character? How can you build character? How can you develop honor in your home relations? How in school? Do you think you must work for honor, or will it develop easily and without effort on your part? Do you think the things in life really worth having are gained with or without striving? Do you think the attainment of honor is desirable? Does it pay in business relations? How hard are you willing to work that you may possess honor?

Many incidents might be related showing the influence of this subject upon the spirit of the school, but I will give only two. In passing along the hall one day, I glanced into the room occupied by pupils of the first grade, chiefly beginners. The order was so excellent, every little child busily occupied with his own task, that I stepped inside to express my pleasure and approval. The teacher was absent from the room, but shortly returned. I told her what I had seen, and praised the children. The teacher then asked them to tell why they were busy and orderly when she was out of the room; and all the little hands came up, and the answer was given, "We're trying to be honor boys and girls."

One morning just before the opening of the session, a teacher of a sixth grade was talking over a little matter of business with me in the hall. When the bell rang we had not quite finished our conversation. A pupil seeing the teacher thus engaged, closed the schoolroom door. Presently we heard the sound of some confusion in the room, and thinking it might be disorder, the teacher gently opened the door.

Our distrust met a merited rebuke. A boy stood before the school, leading in the Lord's prayer. The pupils had seen their teacher in the hall, and were opening the school themselves. This is by no means an isolated case.

A very practical application of this subject, honor, may be made in the care of school property. Children should be taught that every manufactured article is produced at a cost of labor, time and money, and should be used with care, whether the article belongs to them or to another. If text-books are furnished free of cost, pupils must understand that while free of cost to them, they are not so to the tax-payers, and they must show appreciation by a desire to pass them on to their successors in good condition. The books may be well and pleasantly cared for in some such way as this: Let the class elect two or three of its members to serve a month or a shorter term, if necessary, to give all the pupils an opportunity to share in this work. These may be called "Room Librarians" and wear a badge of office; for children like some adults love some emblem of authority. Each one can take charge of the repairs needed to the books on, say 2 or 3 rows of desks, and admonish those handling them with soiled hands. It shall be the work of the librarians to inspect the books during the time they serve, and it will give them a pleasant feeling of independence and responsibility to be allowed to make their own plans of procedure. For example, they might remain after school one afternoon to examine and repair all the readers, another afternoon the arithmetics, and so on. They should be supplied with mending material for fastening loose leaves and repairing torn leaves, which can be purchased at a very small cost, and they should insist upon every book being covered. In the large cities both mending material and the book covers are furnished by the board of education, and this could be done in small towns and even villages, if it were presented to the authorities from the standpoint of economy. If a book is being destructively used, the case must at once be reported to the teacher for investigation. Destructiveness in childhood is chiefly due to thoughtlessness, and unless corrected will lead to shiftlessness. Such a child can not fail to be helped by being called upon to examine many books; to see the results of caretaking, or to repair the damage caused by carelessness. Landlords might cease to be victims to a class of tenants who say, "We don't care anything about this house, you know; it's only rented," if children were given such teaching in school.

Regard for the rights of others is a subject fruitful in good results.

What are the rights of parents? To your love, courtesy and respect; to your ready and cheerful obedience; to your helpfulness (every child should have some work to do in the home, that will add to the comfort of all); to the care of your clothing that additional burdens may not be laid upon your parents.

Rights of teacher? To your courtesy and respect; to your cheerful and ready obedience; to your co-operation in making the school the best possible; to expect honor and honesty in the preparation of daily work; that you be punctual and regular in attendance; to your pleasant, kind, obliging and helpful ways. By this attitude toward the teacher, the pupils are building character of the right sort, and in the end will receive more than they give.

Rights of brothers, sisters, companions, neighbors and strangers in public places may be worked out in the same way as may the rights of animals.

Courtesy is a very good subject, for children are often rude, not intentionally, but through lack of instruction. It may be divided as follows:

Courtesy in the home to father, mother, brothers, sisters and servants; in the school, to teacher, classmates and janitor; to companions, to strangers in public places.

At the close of a month during which this subject was considered, the pupils were requested to make some rules of conduct, and many and good ones were given. Among the younger children two rules, variously expressed, showed the need of this instruction—"Don't sass your mother." "Don't stay with your mother when a lady comes to see her. They don't want you to hear what they're talking about."

The last month of the year may be spent in reviewing the work to learn what impression has been made upon the pupils.

"No man can instruct others in anything. He can, however, awaken thought and arouse impulse. And this is all there is of teaching—to supply an atmosphere in which thought can germinate and grow."

But only half is done when children are made conscious of this wonderful thought power: they must be given a channel through which to direct and use it.

They love to have a part in the affairs of grown-up people, to be taken seriously, and to have opinions on some questions recognized and considered. It is a well-known fact, that a child who hears ways and means seriously discussed in his home, is far more capable and has at least five times the chance of becoming a valuable, independent citizen than a child reared in an institution has.

HOW LAGRANGE CITY GREW

To meet this need, then, it was decided some years ago to give the pupils of Lagrange school a part, a real part, in the management of the school. The idea is not original, it has often been used, sometimes successfully carried out, and sometimes ending in failure. Many years ago, pupil government was introduced into the schools of one of the largest cities in our country, and for a time worked well. Later it was abandoned. It was found that pupils were resorting to corrupt political methods, such as accepting bribes for votes. Children, as well as adults, need preparation to appreciate and use the right of suffrage.

One who watched the work of Lagrange school along this line says: "At first I was skeptical about the municipal idea. But by watching its working out I found that the moral training through your system, taught every day for a few moments, eliminated from an election the evil effects of the strife, and that it was simply a proof of the benefit of the training received, so I changed my opinion."

From the *Toledo Times-Bee*: "The municipal government of the school is the best known of any of its features because the most spectacular, but it is merely a detail, planned to aid in the building of character, and to give the children another opportunity for the working out of their good thoughts."

It may be well to say that the Lagrange pupils do not govern the school. The teachers believe they are too lacking in experience and judgment to be self-governing. The idea is to develop a spirit of co-operation, and to give them, so far as they are qualified, certain duties to a faithful performance of which they are rigidly held.

After trying scheme after scheme, many of which proved failures, the following simple plan evolved, and has worked admirably for years.

The school is considered a city, each room being a ward. In this school of fourteen rooms, the pupils of eight rooms, fifth to eighth grades inclusive, form the voting population, the six remaining schools, the non-voting. Only pupils of the seventh and eighth grades are eligible to office, and the mayor must be a member of the highest or graduating class.

Two elections are held each year, the successful candidate serving during a term of five months.

One week preceding the election, a nominating convention is held, and is in charge of pupils who have been previously instructed how to conduct a meeting according to parliamentary law. This they take great pride in doing, and the other

pupils, being deeply interested, soon learn from them, and are thus almost unconsciously acquiring knowledge which will be useful to them as citizens or voters.

The nominating speeches are often of so high an order, having so much of merit, as to astonish older persons who hear them. It only proves what wonderful latent possibilities are awaiting opportunities for development in these little people. None are more surprised, perhaps, than the teachers, for one rule of the election, rigidly adhered to, is that they give no assistance in the preparation of these speeches, which they hear for the first time from the platform.

Former teachers of the candidate are often called upon for letters testifying in regard to the character of the pupil, his honesty, industry and fitness for office. These are read from the platform in connection with the nominating speech, and the listening voters are impressed by the fact that the back record counts in running for office. One boy, who had been very troublesome, unaccountably changed after attending a convention, to the surprise and relief of his teacher. Later it was learned that he had decided he would one day like to be mayor of Lagrange, and was making his record.

The late Golden Rule Mayor of Toledo, Mr. S. M. Jones, was often present at these conventions, being interested in the experiment. On one occasion he said in a speech to the voters, that it was the best conducted convention he had ever attended.

A week intervenes between the convention and the election. During this time the pupils are given the freedom of the halls, where they meet to discuss the merits of their favorite candidates. Ill-feeling is prevented by the following which is the law of the election: **Say all the good you can about your candidate—not one word against his opponent.** *This law is strictly enforced.*

Right here the pupils are taught the meaning of positive and negative thinking—the positive being the constructive force, the negative, the destructive. They must build up the reputation of candidates, not tear down.

Kind speaking is positive; ill speaking is negative. An election gives a fine opportunity for a practical application of this knowledge, of which the voters are expected to take advantage.

During the electioneering week, the pupils take great delight in decorating the halls with cards and banners of all kinds, setting forth the merits of the different candidates. Many of these placards show great wit, originality and artistic

ability. The work is done after sessions, and pupils often devote an entire Saturday to helping candidates in this way.

The election is a time of intense excitement, stimulating mental action by developing opinions upon a variety of questions that arise. While the teachers keep in the background, they are quite as interested as the pupils, are always ready to advise when asked to do so, but are careful never to express an opinion that might turn votes. They teach the voters how to analyze the character of a candidate in regard to his fitness for office, not to criticise him.

A pupil who had the reputation of being the best boy in school was elected mayor by an overwhelming majority on this merit alone. He proved to be wholly inadequate, because of a total lack of executive ability. Some pupils were once heard discussing the city's condition, and one remarked, "I tell you what it is, we need something more than mere goodness," to which all agreed. Though they could not better express it, they had learned that the goodness of their mayor was negative in quality, and that the positive kind is necessary for accomplishing results.

The teachers also prepare candidates to meet defeat bravely, by reminding them to keep ever in mind that there can be only one successful candidate for each office. More than once it has happened that two intimate friends have been nominated for the same office without in the least affecting their friendship when all was over and one had suffered defeat.

When the great day arrives the voters assemble in the auditorium, and are called to order by the chairman pro tem. He opens with, "Before proceeding to the regular order of business, which is the election of officers for Lagrange City, are there any motions or remarks?" In response, certain pupils, previously instructed, make motions which are either promptly seconded or opposed or amended.

The chairman, having called for further motions and hearing none, then says, "It will be necessary to have tellers. What is your pleasure? Will you elect or shall the chair appoint?" In order to save time the motion carries that the chair appoint. This being done, the tellers take their places on the platform, and the balloting begins.

All the pupils have been previously instructed how to keep tally, but are reminded of the rule that no demonstration must be made until the result is announced from the platform. These announcements call forth the wildest applause, and shouts of "Speech! Speech!" Then the winner goes forward to the platform, and briefly expresses his thanks for the

honor bestowed upon him by his fellow citizens, and gives promise of fidelity in office.

The following is from the Toledo *News-Bee* in regard to these speeches: "Here's one thing gleaned from the story of the election of officers by this school government, this miniature republic or municipality. The boy who was elected mayor said in his speech of acceptance: 'I am sure that I appreciate and understand the honor you have just conferred



EDWARD BUEKKE, *Mayor*

"I will do the best I can for all the people of Lagrange City, all the time."

upon me. It means that I am to do the best I can for all the people of Lagrange City all the time. I shall try to do so.' This is an ideal speech of acceptance. We can commend it to the politicians of Toledo. That boy didn't say he was to do all he could for the Democratic or Republican party, but for

all the *people* of Lagrange City. The boy who was elected treasurer said: 'When I was nominated, my nominator said many good things of me. I will try to come up to all that was said.'"

At one of the elections, a girl was made mayor by an overwhelming majority. She had won the love and confidence of the pupils by her kindness and gentleness in a minor office. She said later in speaking about her election: "When they



HELEN SCHULTE, *Mayor*

"When they talked of me for Mayor, I said to myself, 'If I am elected, I will think always of the work and never of myself.'"

talked of me for mayor, I said to myself, 'If they elect me, I will think always of the work and never of myself.' Truly, a high sentiment for a child in her fourteenth year, and she lived up to all she had promised for herself.

Four officers are elected—mayor, sanitary chief, treasurer and city clerk. In addition to these, inspectors are appointed by the sanitary chief. There are seven in all, each having charge of two wards. All these officers form a council and at stated times meet with the principal to receive instruction in parliamentary law and to confer with her in regard to the care of the building, making such suggestions as from their observation would improve the condition of the city. They understand perfectly that they are not expected to govern the school but in a spirit of co-operation to do all in their power to further its best interests. In almost all cases their suggestions show both wisdom and common sense. These are noted by the principal and reported to the teachers to be acted upon. This dignifies the work of the officers and stimulates them to greater effort. The plan eliminates anything in the nature of courts, or police supervision. Children are neither experienced nor wise enough to sit in judgment on the acts of their companions. To encourage such an attempt on their part is a grave mistake, and has caused the failure of many an experiment along this line in a public school.

Once a month all the pupils assemble in the auditorium for a citizens' meeting. Reports are read by the officers, suggestions leading to improvements are received from the citizens, and if there are complaints against those in office they are entered at these meetings. In the beginning of the work it was not uncommon to hear complaints to the effect that officers were "sassy" or "bossed," etc. These are not heard now, showing that the officers have a better idea of what is expected of them.

The mayor presides at the citizens' meetings, and at all entertainments of any kind held in the auditorium. He has a general supervision of building and grounds. He takes charge of the entrances, where he stations pupils to remind the children to clean their feet before entering and to pass quietly through the halls. He visits basement and playground, mingling with the citizens, who are proud of the mayor they have elected, and show him great respect. It is interesting to watch the effect of this attitude upon the officer—it brings out the best in the boy or girl.

This office demands self-sacrifice. In order to perform its duties, the mayor must prepare much of his school work at home, which means a cutting down of his hours for recreation during the five months he serves.

The duties of the city clerk are the lightest. He takes the minutes of the meetings, which he works into a careful report to be read at the following meeting.

The treasurer, of course, has charge of all funds, which in the main are derived from two sources. Once each year an entertainment is given in the building, the proceeds of which are used for school decoration. The treasurer deposits this money in one of the city banks, and pays his bills by checks. He thus learns something of actual business methods. The other source of revenue is "Penny Day." One day in the week is given this name, because citizens so desiring, contribute a penny, the money to be used for the purchase of flowers for pupils who are ill. The treasurer appoints children, generally from the lower grades, to stand at certain places in the halls with small boxes into which pennies may be dropped. Children are urged to *earn* what they give, because, "The gift without the giver is bare." The purpose is to develop unselfishness, and sympathy for the suffering.

The pennies are collected on Thursday, and on Friday morning the treasurer visits the different rooms to ascertain the number of pupils who are ill. At noon he purchases his flowers, and in the afternoon distributes them. Perhaps only one flower is sent with a note of sympathy, but it brings great pleasure to the recipient as little notes of thanks testify.

The duties of the sanitary chief are more onerous, and his office is regarded next to the mayor's in importance. The inspectors, whom he appoints, make reports of the condition of their wards, and from these the chief compiles a general report to be read at the citizens' meeting. This is listened to eagerly by the citizens, who are highly pleased if their ward is commended.

A chief once said, "I have this report to read, 'Ward Seven is in the worst condition of any in the city.' I hate to do it, but the inspector reports that he has spoken to the pupils again and again about the appearance of the room, and it makes no difference; so I feel it is the only thing left to do." The chagrin of the citizens of Ward Seven may be imagined, but there was civic house cleaning, followed by a good report at the next meeting.

The chief must also see that building and grounds are kept free of papers or debris of any kind. This work he assigns to the non-voters, that they may feel they, too, have a part in the government.

A newly-elected sanitary chief in the zeal of office said, "I'll break their backs if they don't keep that basement in better shape." He was reminded that "breaking backs" was out of harmony with the spirit of a city whose citizens were urged to do right because it is right, and not through fear of punishment. Later he reported, "Some boy kept spitting on



SANITARY OFFICER AND HIS SQUAD

These children see that the grounds are free from papers

the basement stairs, and I couldn't find out for a long time who it was. But today I caught him. I asked him if he knew how dangerous it was, and he said he didn't. Then I told him what I'd read, and how many street car conductors had died before spitting in the cars was forbidden. I gave him a whole lot of facts. He said he had always spit where he felt like it, no matter where he was, but that he'd quit it."

The chief was commended for having taken the better way, and was reminded that he had made a friend instead of an enemy, as would have been the result had he followed his first intention of "breaking backs."

The inspectors always take the citizens unawares. Whenever one of these officers has a few minutes to spare during a study hour, he slips quietly out of his room to visit his wards. He notes the condition of floor, desk, cloakroom, and the general appearance of the citizens in regard to cleanliness and neatness, and reports on each item, excellent, good, fair or poor. Blank reports are furnished, which he need only fill in with initial letters.

The inspectors, by permission of the teacher, often make little speeches to the citizens of their wards, either in commendation or disapproval. In a small way it is the beginning of public speaking, the ward being a part of their little world, and is quite as great a strain upon their nerves as for some men to speak before their fellow citizens.

It has always been an unwritten law that only those pupils are eligible for office whose record, past and present, is good. A few exceptions have, however, been made.

A boy was once nominated who resembled the little girl in the rhyme:

"When she was good, she was very, very good,
And when she was bad she was horrid."

He was surprised and deeply touched by this expression of affection on the part of his classmates, and said he knew he had his record to make and that he'd make it. He did remarkably well in office until within a short time of the close of the school year. Then one day he said to his teacher in a confidential whisper, "Do you know anything I can take? Gee! but I'm getting bad." His teacher told him that a strong exercise of will power would be the best medicine, and would surely tide him over the remaining ten days. He acted on the advice, put forth the effort, and went out of office with a record of which he was justly proud.

Before beginning the municipal government of the school, the pupils may be prepared by short talks on the following topics:

What is meant by government? Is government necessary? Why? In the home? Why? In the school? Why? In the city? In the state? In the nation? Do you believe in government? Are you willing to give loyal support to home and school government, believing that by so doing you are preparing yourself for useful and loyal citizenship?

There is always an orchestra for this miniature city to furnish music for public meetings. Until the past year the leader has been a pupil, but at present an orchestra numbering thirty members is in charge of two of the teachers, who unselfishly give their time out of school hours to this work. One of the teachers said, "When we organized the orchestra I thought it meant drudgery for me, but nothing that I have ever done has brought me such real happiness. The children are so appreciative and obedient that it is a pleasure to work with them, and I have learned much that could never have come to me in any other way." She had verified the truth—we never give in unselfishness without receiving many fold.

Some questions naturally present themselves in regard to the effects of this plan, and the results.

With all that is required in the average public school when is time found for this additional work?

Chiefly after regular sessions, but it does not take so much time as would at first appear. Only the officers are instructed in parliamentary law, which they learn very readily. Doing things in order seems to appeal to them, and they desire knowledge, which is the greatest incentive to acquiring it. The pupils soon learn from seeing the officers conduct the meetings, and each year the work of instructing becomes less difficult. A teacher unwilling to give a part of his or her own time to the work should not undertake it.

Does not the excitement attendant upon the election interfere with the regular work?

The following is from a Toledo paper: "The teachers do not experience any difficulty in controlling their classes during election, this fact having been obtained from an interview with several. Moreover, the teachers assert that in no way are the studies slighted, but that full instruction is given in each study as prescribed. On the other hand, the advantages to be derived are of sufficient importance to warrant the continuation of the system."

What is the effect of this training upon the pupils?

It does not claim to make saints: heredity and environment are always strong factors. But the majority of the pupils so governed are kind and obedient; listen to reason when a "bad day" comes their way just as it does with some

older people; are ready to ask pardon when they see they have been at fault; though a forced apology is never permitted, the effect tending to develop hypocrisy. But this is true: they understand that kindness, cleanliness, obedience, self-control, etc., are worth cultivating because they help toward the building of a strong character. Like older people, they may not live up to the best they know, but they *do know*.

The marking system being abolished, how do they compare when brought into competition with pupils who work for marks?

Here is an answer from Mr. William Sanger, one of the teachers in the Toledo central high school: "I receive students from seventeen different grammar schools in the city. I have always made comparisons of the work of these classes, and from these comparisons I have always found the students of Lagrange school doing good work, and very frequently have found that they were doing the best work in the class. As a rule, they show a willingness to work, and to do the best they can. Their peculiar training tends to develop a wholesome spirit."

It must be explained that the marking system is abolished, that is for daily work, though important tests are graded. Pupils are taught that marks are false incentives; that lessons well prepared develop the mind, and that the reward for mental effort is in the mental growth and control, and not in marks which too often are unjust estimates.

A boy once said to his teacher: "This has been the happiest year of my life. I have never been strong, and some days I can't work. When the teacher listened to what I said, or rather couldn't say, on one of my bad days, and I knew her pencil would come down with a zero for me, it made me nervous and mad. But this year, the days I couldn't work I've just listened to the others, and when I've felt well I've worked to make up, and I never learned so much in a year before."

It is not difficult to make pupils feel that all false incentives are childish and unworthy.

At one time the marching was not satisfactory, and to bring it up to a higher standard, I offered to award a banner to the school that marched best. After the first trial, a pupil in the most advanced grade said he did not understand why a banner was offered as a reward for good marching to a school that was taught to despise false incentives. He thought pupils should march well because it is right and not for a banner. This was reported to me, and in order to learn the sentiment of the other pupils, I gave the four highest classes this question:

to debate: "Should a banner be given as a reward for good marching?"

It resulted in a complete overthrow of the banner, which was a merited rebuke to me for having, through force of habit, attempted to use a false incentive.

A teacher of one of the classes jotted down the following points as they were made:

Many of the pupils thought that having a banner would create ill feeling. One pupil thought that after the banner was presented, other schools would stop trying. A girl said she would be satisfied if principal and teachers acted as judges, for she thought pupils would be influenced in their decisions. Several thought the banner would not be fair, for only the higher grades would ever have it. This must be expected because they had had the greatest number of years of practice, while some of the lower grades, on the ground of effort, might be equally deserving. Then some one suggested that the judges should take into consideration effort, improvement, etc., and give the banner where it belonged. One of the older pupils then said that no pupils could be so discriminating (or words to that effect).

Then the pupils decided that there were too many things to be taken into account to make it possible to judge fairly, and a vote being taken, thirty-five out of thirty-eight members of the class were opposed to the banner as a false incentive. I had, however, one loyal supporter. He said I must have had some reason for offering the banner, and until he heard from me he would cast his vote in the affirmative.

An attack was once made in a Toledo paper upon the Lagrange system. Among other things the writer said: "The pupils should be filled with book-learning for ten full months of the year, and trust to luck for politics later."

Two Lagrange graduates, now students of the Ohio University, replied to the article, closing as follows: "If one could but visit the Lagrange school and see how careful the pupils are to obey all the laws and orders, he would be driven to the conclusion that these little citizens of Lagrange City obey their laws to a far greater extent than do the people obey the laws of city, state and nation. We believe that if the system did nothing more than to teach reverence for law and order, it would have sufficient merit to warrant its continuance. We fully advocate and support the Lagrange system, because the pupils during the formative period of their lives are taught the elements of true politics, thereby laying the foundation for future activity and usefulness, as members of the body politic; because they are imbued with the spirit of reverence for law

and order; because practice is afforded in public speaking, a knowledge of which in a representative government is of the highest utility; and, lastly, because this system, being made a part of the instruction furnished the pupils, is a step toward the idea of true education—for that education is best which makes its possessor of the greatest service as a member of society."

We have boys and girls in the same school, and they must meet and talk together. What shall they talk about? Here are matters of mutual interest, furnishing wholesome topics for discussion. Boys are growing up with the idea that girls can take part in municipal affairs without becoming masculine. They have shown that they can make excellent nominating speeches for these same boys, and can capably and faithfully discharge the duties of an office. Pupils are learning to work together harmoniously, to co-operate, and that is the foundation principle of human society, which all must learn and apply before there can be universal happiness.

When we think of the millions of children to be trained in citizenship, the problem becomes a serious one. The public school has hitherto considered two parts of child nature—the mental and the physical; it must now give earnest attention to the third—the moral—if we are to have the all-round developed American citizen.

The wide-spread talk of "tainted money," and the exposure of iniquity in high places, give promise of better things. The day is coming when a man will be valued for what he is, and not for what he has. The question will not alone be how to get money, but how to get money honestly.

The children of today must be prepared to meet this demand for integrity in business; they must be taught how to develop true character that all mankind may rise toward a higher plain.

To whom shall the children look for this preparation? To their guardians—the parents and the teachers. But too often the parents fail in their duty to the child, and in such cases the burden must be borne almost wholly by the teacher. Pity the child when both parents and teacher fail him.

Doctor Oppenheim says: "There is not enough of conviction in the minds of parents and teachers that the responsibilities of the children's acts, either good or bad, rests upon their older shoulders; that the final outcome of these children's lives depends almost entirely upon the influence, the nutrition, the environment, which the authority of the parents and teachers provide."

A realization of this truth is the first step in the direction of helping the child. No one can give to another knowledge which he himself does not possess. Only the parent or teacher awake to his or her own higher self can lead the child into a knowledge of himself as spirit, and having a mind and a body for his servants.

More than eighty years ago, Frederick Froebel said: "There exists no other energy but that of thought." And further back the Bible states, "As a man thinketh in his own heart, so is he."

Here, then is the key.

Those who deal with children should watch their own thinking most carefully, for children, being sensitive and intuitive, are strongly influenced by the thoughts of those around them.

The following is from *Moral Education* by Rev. Philip S. Moxom, D.D.:

"We are all agreed in loyally supporting our public school system. It is the creation of a free, self-governing people. The responsibility for it, the merit of its success, or the blame for its failure rests on us—the people. What is the end and aim of that system? To train thinkers? It certainly is a necessary part of education to be able to think alertly and effectively on all questions that concern us as human beings. Is it to train workers? A very important part of education is ability to do skilfully whatever task is allotted to us in life. But neither answer alone is satisfactory nor are both together adequate. The main end of our school system I understand to be, to make men and women who shall be good citizens and useful members of society in all the relations proper to mankind. It is to give to youth intelligence, skill, initiative self-reliance and self-control as responsible moral beings. The culture which is needed most is that which produces a well-trained mind, a healthy and responsive body, and a sound character. Said a principal of a school to me recently, 'I say to my teachers that nine-tenths of our work is moral.' Did she go too far? No; for the moral enters into the whole discipline of the true and adequate education."

"It is a greater and more difficult thing to live, in the true, deep sense, than it is to get a living. Children must be made to feel and then to see that honesty is better than brilliancy, that integrity is worth more than riches, that good character is a prize valuable beyond the power of all material means to measure. If our schools do not train children for upright manhood and pure womanhood, they fail of their highest utility. I close with the expression of my belief that we need

to lessen the details of our curriculum, and increase the means and opportunities for inculcating truthfulness, honor, reverence, purity and uprightness. A clever intellect without a tender conscience makes a Mephistopheles. We are seeking to make men and women who shall know their duty in the world, and have the will to do it. That is an end to call forth our deepest wisdom and our strongest endeavors. On the achievement of that end depends the soundness and permanent prosperity of the nation."

What do these words of the greatest teacher the world has ever known mean to parents and teachers?

"And whoso offendeth one of these little ones, it were better for him that a mill stone were hanged about his neck and that he were drowned in the depths of the sea."



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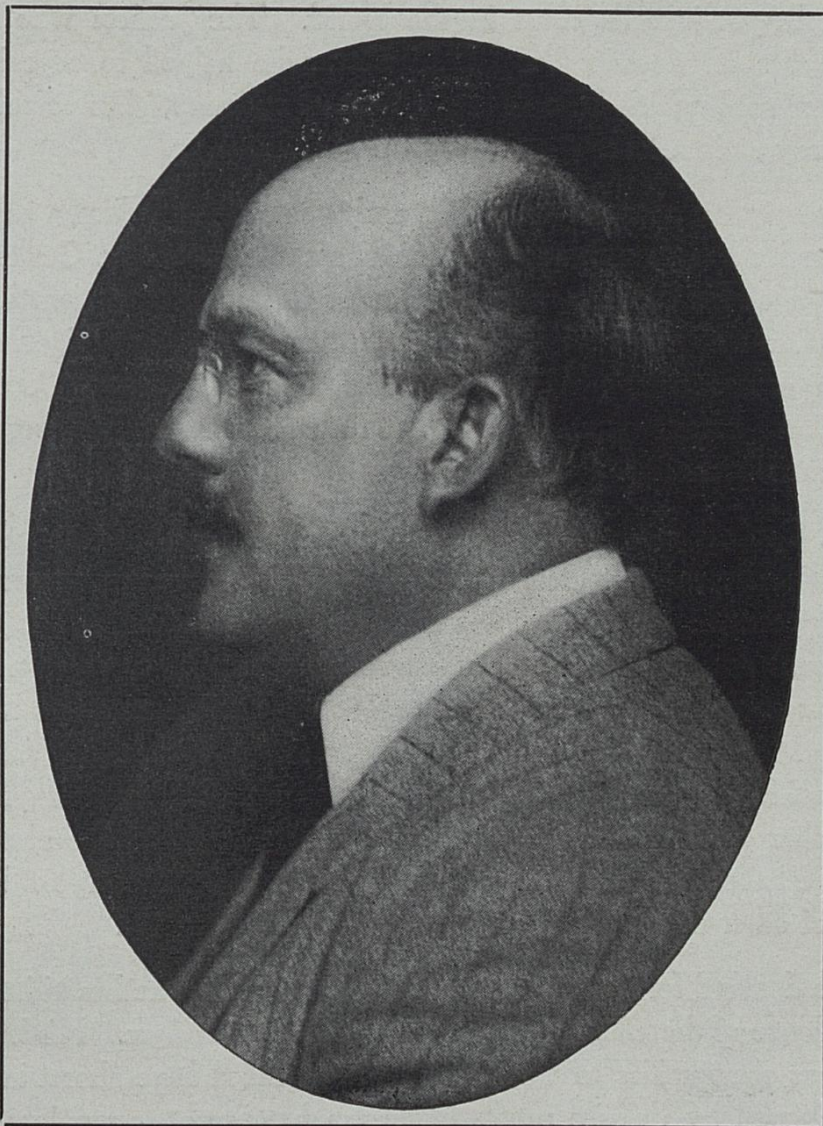


WILLIAM B. FEAKINS
(Successor to the Civic Forum Lecture Bureau)

.... ANNOUNCES

ERNEST K. COULTER

CLERK OF THE WORLD'S LARGEST CHILDREN'S COURT



IN LECTURES ON
*CHILD PROBLEMS, CIVIC BETTERMENT,
IMMIGRATION, CONGESTION, JUVENILE COURTS
AND SUBJECTS DEALING WITH CHILD CONSERVATION*

EXCLUSIVE MANAGEMENT
WILLIAM B. FEAKINS
23 WEST 44TH ST., NEW YORK
TELEPHONE: BRYANT 4897

MR. COULTER has had a close personal view of the cases of more than 80,000 children brought into the "world's biggest life saving station." This unprecedented opportunity and his study of child and civic problems give him an authority on these subjects such as is possessed, perhaps, by no other one lecturer. The Children's Court of New York County deals in one year with several times as many cases as the next largest juvenile court in the world. The Justices who preside there change of necessity but Mr. Coulter, who helped to organize that humane tribunal, which he calls the "palace of optimism," has served there continuously as its Clerk.

¶ A lawyer, an observer trained by early years of journalism, a sociologist whose service has been in action rather than speculation, Mr. Coulter has a knowledge of his subjects and a power of forceful presentation that keep him in wide and growing demand as a lecturer. There is a vigorous dealing with causes among which congestion, bad environment, "delinquent parents" and human greed loom big. *He sets forth not only conditions but practical remedies.*

¶ Mr. Coulter's lectures abound in human interest—incident, pathos and humor clinching sober appeal. The Big Brother Movement, that new and intensely practical and humane individual work for child victims of bad environment and neglect which has already spread to more than twenty cities, was originated by Mr. Coulter and speaks something of his resourcefulness. He has been one of the pioneers in the work of bringing about some provision for the special treatment of mentally defective delinquents; he is a member of the National Council of the Boy Scouts of America; of the committee to federate child play and recreation activities in New York, as well as of other important organizations working in this field.

¶ The demand for return engagements in many cities he has visited is the best evidence of the effectiveness of Mr. Coulter's messages. His lectures in the various communities to which he has been called have almost invariably been followed by definite results in human betterment, campaigns against needlessly high infant mortality, crystalization of sentiment leading to the establishment of children's courts, the opening of play grounds, arousing of new consciousness of responsibility toward tomorrow's citizens.

¶ Mr. Coulter has been invited to address such bodies as the New York Academy of Medicine, The National Conference of Charities and Correction, The Child Welfare Exhibit in New York, The Outlook Club of Montclair,

N. J., The Children's Aid Society and McGill University of Montreal, Canada, The Women's University Club of Grand Rapids, Mich., The Fathers and Mothers Club of Boston, The City Club of Philadelphia, The City Federation of Women's Clubs and the Juvenile Protective League of Charleston, S. C. colleges, teachers' association and some of the best known private schools in the East. He has contributed to the North American Review, The Outlook, The Contemporary Review, (London) and to other magazines. Mr. Coulter's study of child and civic problems has not been confined to New York but has led him to many other cities in this and European countries.



LECTURE SUBJECTS

THE CITY'S CHILDREN

PUBLIC CONSCIENCE AND THE CHILD

CITIZENS OF TOMORROW

A DAY IN THE CHILDREN'S COURT

THE FIGHT FOR PLAY

CONGESTION, ITS COSTS AND PERILS

SLAVERY OF THE TENEMENTS

THE DELINQUENT CHILD

THE DELINQUENT PARENT

THE DELINQUENT COMMUNITY

*For Those Wishing Only a General Survey of the Question
of Delinquency One Lecture Will Be Given On:*

THE THREE DELINQUENTS

IMMIGRATION AND OUR CITIES

THE LAW AND THE CHILD

ENVIRONMENT AND THE CHILD

THE EXCEPTIONAL CHILD

THE CIVIC AWAKENING

PERSONAL COMMENT

DEAR MR. FEAHNS:

Regarding Mr. Coulter's lectures in our city I can scarcely do justice in writing you. Mr. Coulter's lectures were an inspiration and since his visit I have received letters offering money and personal service from people who never had a thought of helping before. The point of view regarding delinquents is completely changed. I have never heard the subjects of our high infant mortality and lack of compulsory education law discussed so constantly and earnestly as since Mr. Coulter's lectures and by another month we expect to open our first mothers' clinic and pure milk station. Next Fall we are to have a Children's Day, the proceeds to go towards putting up a home (industrial) for our little girls between the ages of eleven and sixteen, many of whom have to go to jail where we have no separation from old offenders.

I many times wonder if we can ever truly realize the power of a man like Mr. Coulter. Again and again people ask: "Are we going to have Mr. Coulter again next year?" I always say "yes" for I feel he must some day return to see at least a little of the results of his long to be remembered visit to our city.

18, The Marlborough

Montreal, Canada, May 5, 1911.

Yours sincerely,

ROSE WILLS HENDERSON.

MY DEAR MR. FEAHNS:

Last night's discussion was a decidedly popular and interesting one to our members. Mr. Coulter's handling of the story of "A Day in the Children's Court" was most sympathetic and human and formed a splendid preliminary to Dr. Woods Hutchinson's technical and scientific views on the very best method of solving this great problem. Both Mr. Coulter and Dr. Hutchinson should be heard by every student of child welfare.

Very truly yours,

WILLIAM W. PEAKE,

Montclair, New Jersey, Jan. 28, 1911.

President Outlook Club.

MY DEAR MR. FEAHNS:

An eagerly interested audience gathered on a difficult Monday night, in spite of rain, entirely filled the great auditorium of the First Methodist Church to hear Mr. Ernest K. Coulter. Of vital interest to us all are the marvelous methods of making bad boys into useful citizens, which Mr. Coulter so clearly demonstrated. Everyone went away feeling the effectiveness of that cheerful social sympathy, which so evidently possessed the speaker.

CHARLES KELLEY JENNESS,

Minister First Methodist Episcopal Church.

Morgantown, West Virginia, April 25, 1911.

DEAR MR. COULTER:

All of the people were very much delighted with your message and sometime we must get you back again.

W. C. ARNOLD,

Secretary Y. M. C. A., Hazleton, Pa.

PRESS COMMENT (continued)

Mr. Ernest K. Coulter, Clerk of the Children's Court of New York City and founder of the Big Brother Movement spoke last night at the Freundschaft's Bund Hall on "A Day in the Children's Court" to an enthusiastic and representative Charleston audience. Mr. Coulter was heard with the closest and most appreciative attention and his address is calculated to do a great deal of good toward explaining and stimulating interest in the Juvenile Court and its work.

Mr. Coulter proved a delightful lecturer as well as a man in every sense an expert in this phase of child betterment work. He is a speaker of most magnetic and attractive personality and the voiceless children of the slums, in whose interest he is working, have an able advocate in this officer of the largest Children's Court in America.

The Charleston (S. C.) News and Courier, November 9, 1910.

The world cannot now estimate what it owes to the Judge Lindseys and the Jane Addamses and the Ernest Coulters. The debt will go on compounding with each succeeding generation. It is work for the future.

The Telegraph, Harrisburg, Pa., April 25, 1910.

"A Day in the Children's Court," by Ernest K. Coulter drew a large audience at the Methodist Episcopal Church last night. The lecturer gave his audience an illuminating account of this altruistic movement as it relates to the delinquent child, the delinquent parent and the delinquent community. The speaker held that the child is always plastic and if caught young enough always proves susceptible to the influences of good environment. Piquant stories of the sayings and doings of the youngsters brought before the Children's Court gave Mr. Coulter's lecture a vivid human interest and held the close attention of his large audience throughout the evening. The lecture will give a new impulse to the movement to provide Morgantown boys and girls with much needed playgrounds.

Morgantown (W. Va.) Post-Chronicle, April 4, 1911.

Judge Lindsey's talk was mainly of the child. He thought New York City should have at least ten children's courts. He gave great praise to the work being done by Ernest Coulter, clerk of the Children's Court here.

New York World, April 22, 1910.

Mr. Coulter is one of that splendid group of men and women in the United States which includes Jane Addams, Judge Lindsey, Judge Mack and others who are freely giving of their strength and labor for the service of the poor and neglected and delinquent children of the country.

Montreal (Canada) Daily News Witness, March 4, 1911.

With child pictures that made the audience laugh, smile, and swallow little throat lumps in rapid succession the eloquent speaker laid before his hearers the general results accomplished in the great Metropolis.

Boston Journal, January 20, 1909.

PERSONAL COMMENT *(continued)*

DEAR MR. COULTER:

On behalf of the faculty, students and friends of this college, I desire to thank you for the three admirable addresses you gave to us. They were informing, inspiring and suggestive; I doubt not that they will be productive of much real good. I wish it were possible for every student body to have the privilege of hearing your lectures; do what you can to make it possible.

Very respectfully yours,

CARL G. DONEY.

President West Virginia Wesleyan College.

Buckhannon, West Virginia, January 14, 1910.

DEAR MR. COULTER:

I shall undoubtedly fall short when I try to tell you how very much we enjoyed your sympathetic, stimulating, touching and amusing story of the Children's Court. The afternoon will long be a pleasant memory which we hope will bear fruit in a new attitude toward the young offenders of our city.

MRS. MARY A. LEAVER,

Concord, New Hampshire, Feb. 15, 1910.

Woman's Club.



PRESS COMMENT

Yesterday the City Club discussed the Juvenile Courts. So full of human interest were the stories that when Mr. Coulter had finished his talk, the audience made him continue and tell still more of the work of the Children's Court.

Philadelphia Ledger, November 15, 1908.

There was a large audience at the Academy auditorium last evening to listen to the address by Ernest K. Coulter. He appeared in this city under the auspices of the Teachers' Association, and those who did not hear him missed a rare treat, for it is seldom that the public has an opportunity to listen to one so familiar with conditions among the tenement children of New York.

Utica Daily Press, January 22, 1910.

Mr. Coulter's presence is magnetic and bright; he is keenly alive in his subject and presents his views with an earnest eloquence which kindles conviction in his hearers. He is possessed of much sympathetic dramatic talent, and his quaint, pathetic and humorous tales delighted the audience.

Daily Globe, Fall River, Mass., February 14, 1910.

REPORT OF THE
SPECIAL COMMITTEE ON
THE MATTER AND METHODS
OF SEX EDUCATION

Presented before the Subsection on Sex Hygiene
of the
Fifteenth International Congress on Hygiene and Demography
held in Washington, D. C.
September Twenty-third to Twenty-eighth
Nineteen Hundred and Twelve

December, 1912

Issued by
THE AMERICAN FEDERATION
FOR SEX HYGIENE

Tilden Building, 105 West Fortieth Street
New York City



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REPORT OF THE
SPECIAL COMMITTEE ON
THE MATTER AND METHODS
OF SEX EDUCATION

Presented before the Subsection on Sex Hygiene
of the
Fifteenth International Congress on Hygiene and Demography
held in Washington, D. C.
September Twenty-third to Twenty-eighth
Nineteen Hundred and Twelve

December, 1912

Issued by
THE AMERICAN FEDERATION
FOR SEX HYGIENE

Tilden Building, 105 West Fortieth Street
New York City



REPORT OF THE
SPENCER FOUNDATION ON
THE MATTER AND METHODS
OF SEX EDUCATION
PUBLISHED BY THE
SPENCER FOUNDATION
NEW YORK
1913

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THE AMERICAN LITERATURE
FOUNDATION
NEW YORK

THE AMERICAN FEDERATION FOR SEX HYGIENE

REPORT OF THE SPECIAL COMMITTEE ON THE MATTER AND METHODS OF SEX EDUCATION

TO THE AMERICAN FEDERATION FOR SEX HYGIENE:

In January of last year the undersigned, as a Committee appointed by the Federation to formulate a plan for sex education, sent out to a large number of educators and medical men a letter asking their opinion on:

1. The importance of educating young people in the physiology and hygiene of sex;
2. The practicability of introducing sex teaching into schools and colleges;
3. The matter and methods of proposed instruction.

The replies to this inquiry, in the large majority of cases, were substantially favorable to these suggestions. Encouraged by this fact, your Committee sought the judgment of experts on the main features of such instruction, both as to matter and method, and formulated thirteen propositions outlining a possible scheme of such instruction which were submitted for criticism to a large number of educators in schools, colleges and universities, as well as to medical men and social workers. A little over one hundred replies were received commenting upon some or all of these propositions. Many of these replies, in addition to expressing general approval, offered valuable criticisms which suggested modifications and additions. Some of these criticisms and suggestions are so important that your Committee deem it desirable that they should be included in this report, and they are accordingly added in the form of an appendix, grouped under the various propositions to which they specifically refer. Where the name of the author is given, it has been done with his special permission.

Presented before the Subsection on Sex Hygiene of the Fifteenth International Congress on Hygiene and Demography, held in Washington, D. C., September 23-28, 1912.

The replies in the case of each proposition have been classified under "affirmative," "negative" and "doubtful," to indicate in a general way the degree of approval or disapproval.

In general harmony with the propositions referred to, and in the light of this body of expert opinion and criticism, your Committee ventures to offer the following general outline of a plan of sex education:

1. Sex instruction has a purely practical aim, and should be strictly limited by this aim. Its purpose is to impart such knowledge of sex at each period of the child's life as may be necessary to preserve health, develop right thinking, and control conduct. Its aim is both hygienic and ethical; and whatever knowledge of sex and of sex relations in human life is not necessary at any particular period of the child's life for these ends should not be imparted at that period. In all cases, however, temptations should be anticipated by the instruction necessary to protect the child from physical or moral harm.

A further aim of such instruction, not only to children but also to adults, is to develop a healthier public sentiment in regard to sex, which will make it possible to discuss with more freedom than is now customary the grave hygienic and moral dangers to the individual and the community which grow out of the violation of the physical and moral laws governing sex life and the sacred processes of human reproduction. The common reluctance even of educated people in the past to tolerate discussion of this subject, outside of medical circles, must give way, and is rapidly giving way, to a nobler and purer sentiment which will recognize that whatever is fundamental and vital to health and morals in the individual and the community is a proper subject for serious thought and discreet discussion. Moreover, a knowledge of the marvelous processes by which life is perpetuated, from its lowest forms to its highest, impresses on the mind, more firmly than is possible in any other way, the sacredness of human reproduction and the dire consequences to future generations of wrong sexual conduct.

2. Thus limited by its aim, sex-instruction must differ in one important respect from other scientific instruction, in that it must not seek to create interest and awaken curiosity in the subject with which it deals, but merely to satisfy the curiosity which spontaneously arises in the child's mind, by answering his questions truthfully, but only so completely as may be necessary to give proper guidance to his conduct, both hygienic and ethical. The less children and youth think of sex, and the later they mature sexually, the better both physiologically and ethically. Premature development of the sex consciousness and the sex feelings is harmful.

Sex instruction, therefore, should aim to keep sex consciousness and sex emotions at the minimum, and should avoid everything which tends to awaken or to intensify either. Natural curiosity abates when judiciously gratified in a way not to suggest further inquiry; children, like adults, are curious not about what they do know, but about what they do not know. In the later years of adolescence, however, such instruction may properly suggest the vast hygienic and ethical implications of the facts of sex and of reproduction. It is important also to satisfy all normal sex curiosity before it becomes reinforced by the development at adolescence of the sex emotions, and to anticipate the possibility of the child's receiving sex information from impure sources.

3. It follows from the above principles that detailed descriptions of external human anatomy are to be avoided; and that descriptions of internal anatomy should be limited to what is necessary to make clear and to impress the hygienic bearing of the facts to be taught. The details of human embryology which have no direct bearing on important practical truths should likewise be avoided. In printed books and leaflets, cuts illustrating human anatomy should be avoided wherever possible; and, if used at all, should be limited to the absolutely essential facts, and be conventionalized for the purpose as much as scientific accuracy will permit.

It is both important and timely in the judgment of your

Committee that the Federation should emphasize the necessity of wisdom and good judgment in imparting sex instruction and in the publication of booklets and leaflets on the subject. Danger to the movement might conceivably come from lack of judgment or excess of zeal on the part of its friends.

4. The purely scientific basis for such instruction must be laid in the biological nature study in elementary schools and in the more systematic instruction in biology and hygiene in secondary schools and colleges.

5. It must be supplemented by providing proper physical exercise; by insisting in the home on regular hours of sleep; by providing adequate facilities for play and wholesome amusements; by protecting children from the unwholesome associations and corrupting influences of debasing shows and immoral literature; and by maintaining the confidence of children in their parents and teachers, so that signs of danger may be the more promptly detected.

6. The purely scientific instruction must be reinforced as strongly as possible by ethical instruction, both direct and indirect, with due regard to the maturity of those taught. Such instruction should be incorporated in the general course in practical ethics in secondary schools and colleges; and certain phases of it should be made a part of the general lessons in morals in the upper classes of the elementary schools. Appeals to the sense of personal self-respect and purity and to the instinct of chivalry can be effectively made in the earliest years of adolescence, and even before. With relatively mature students, the vast sociological bearings of the subject, with their ethical implications, can be effectively utilized.

Among the means of indirect ethical instruction for this purpose, the most effective is good literature. It is of immense consequence that during the adolescent years the pupils' minds be saturated with the great masterpieces, both in poetry and prose, which deal with romantic love in its purest forms. Thought of sex and sex emotion must at this time be spiritualized and placed on the highest plane,

and good literature is the most effective means to this end which is available in the public schools. Any kind of sex education which ignores the education of the emotions is seriously defective. Deep intellectual interests, enthusiasm in art, or ardent devotion to some worthy practical cause, absorb the mind and furnish wholesome avenues for the expression of the emotions. Few conditions are so dangerous at this period as idleness, whether physical or mental, and an absence of interest in things which appeal to the higher altruistic instincts.

7. The value of physical exercise, especially in the form of play and athletic sport, in its bearing on the control of the sex instinct, is so generally recognized that it needs no special emphasis here.

8. For the purpose of outlining more specifically the character of the instruction adapted to various ages, the life of the pupil may be divided conveniently into four periods; namely, from one to six, from six to twelve, from twelve to sixteen, and from sixteen to full maturity. This division, as will be recognized, is not wholly arbitrary, but rests on a basis of facts, both physiological and psychological.

9. The period from one to six is the period preceding admission to school, and is, therefore, the only period during which the care of the child falls chiefly upon the mother—the kindergarten at present reaching only a small proportion of children. It is therefore important that in lectures on sex education given to mothers, special emphasis be laid upon this period, and that proper instruction be given as to the care of the child's body. The danger to the child of placing it in the care of an immature or injudicious nurse should be pointed out. Instruction should be given as to how the child's questions relating to the origin of human life may best be answered. This is the only sex instruction a child needs during this first period. In addition to this, watchfulness over the child's habits, and protection from untoward influences constitute the mother's chief duty.

10. The period from six to twelve, which might be subdivided into that of early childhood and that of later child-

hood, covers the greater part of the elementary school period. Here the school must share with the home the hygienic and moral care of the child; and as most parents are not qualified at present to give the necessary sex instruction to their children, this duty falls mainly upon the school.

Truthful and delicate answering of the child's questions as to the origin of the individual human life, and instruction which will protect it from forming injurious sexual habits, constitute the chief features of sex instruction during the early years of this period. Such instruction at this period is best given privately, and should be carefully adapted to the child's individual needs.

It is essential at this, as at other periods, that the child be provided with abundant facilities for play and exercise; that his habits of sleep be regular, and that he be protected from corrupting social influences at school and in the neighborhood.

In addition to the above, there should be given, during the years of later childhood, including the remaining years of the ordinary elementary school course, a carefully planned series of lessons on reproduction in plants as a part of the course in nature study. The child should be made to understand the function of root, leaf, flower and seed; the different modes of scattering seeds; the various methods of fertilization and the necessity of fertilization, and he should be led up to the generalization that plant life always springs from plant life.

In like manner, a series of lessons on reproduction in animal life below mammals should be given, making use of familiar animals. The origin of the chick, the fish and the frog from the egg, and the metamorphosis of the frog; the origin of insects and their metamorphoses; and, finally, the necessity for fertilization;—these might form the chief general topics of such a series of lessons.

The aim should be, so far as specific sex instruction is concerned, to impress deeply the mind of the child with the beautiful and marvelous processes of nature by which life

is reproduced from life, both in the plant world and in the animal world. It is not necessary, and in most cases not desirable, that children should make application of this knowledge to reproduction in man before the beginning of adolescence, further than that the human infant is developed within the mother. But such instruction on reproduction in nature will create the background of knowledge which will afterward invest reproduction in the higher animals and in man with a significance and a dignity not otherwise attainable; and what is equally important, it will create the right emotional attitude toward human reproduction and prepare the child's mind to appreciate its sacredness.

During the last three years of the elementary school course, over-age children and children who have contracted injurious sex habits often need, in addition to the above, instruction of a special kind. Such instruction should be given privately.

11. During the early adolescent period, approximately from the age of twelve to sixteen, reproduction in plants and in animals below the mammal should be more extensively studied, and the wonderful variety of modes of fertilization, especially in plants, be emphasized. It is important to make the pupil acquainted with a wide range of facts, in order to impress his mind with the wondrous beauty of nature's provision for the perpetuation of life, the aim being always ethical as well as scientific and hygienic.

With this background of knowledge, reproduction in mammals may be taken up. The teaching ought now to impress, with many illustrative facts, the generalization that animal life comes from *the ovum*. (The more accurate formulation may be left until later.) Fertilization in mammals should now be taught, and this should by natural steps lead up to reproduction in man. The simplest facts in regard to heredity should now be taught, and their applications be made to human life. The pupil will then be in a position to understand the significance of sexual morality, and to be impressed with the dangers to health and morals of

abnormal sexual habits. Specific instruction in regard to sexual morality will now be especially effective.

As girls mature from a year to a year and a half earlier than boys, they should receive such instruction somewhat earlier, and emphasis should be laid upon instruction in regard to the special care of their health at the change of life called puberty.

12. In connection with the study of reproduction, both during the earlier and the later adolescent period, emphasis should be laid on the broader ethical implications of biological facts as revealed in evolution. The evolution of care for the young and of the corresponding psychic factor of love of offspring should be made clear and be emphasized. The evolution of parental love should be traced both in animals and in man; the fact that as the offspring become fewer and are more helpless at birth, parental love and care must of necessity increase; that the pairing of animals for this purpose foreshadows the human family; that as the human infant is one of the most helpless animals at birth and has a very long period of maturing, human parental love is naturally strongest, especially in the mother. At this point biology and ethics are so closely interrelated that they can be made mutually to reinforce one another; and the significance of the family and the sacredness of the home can be impressed as in no other way that is available in the public schools.

The ethical relations in the home between parents and children and between brothers and sisters should be emphasized. It should be impressed upon every boy that every girl is somebody's daughter and usually somebody's sister, and that it is his sacred duty to accord her the same respect and protection which he would exact from another boy toward his own sister. It has been found by actual experience that this point of view can be made to appeal strongly to boys even when some other points of view do not appeal effectively.

13. During the entire period of adolescence, children should be given a general knowledge not only of the physical changes through which they are passing and their hy-

gienic and ethical significance, but they should also be led to comprehend the significant psychic, especially the emotional, changes through which they are passing. At this period children are at times a mystery to themselves, and are apt to feel that they are not understood, or are misunderstood, by their elders. If at this period parents do not maintain close sympathetic and confidential relations with them, there often result alienation of the children and loss of control by the parents.

14. During the adolescent period, in addition to the indirect moral training through literature, as suggested above, there should be systematic instruction in practical ethics, of which the ethics of the sex relation should form a natural and integral part.

15. During the later period of adolescence, that is, from the age of about sixteen to complete maturity, there should be given, in addition to the foregoing, more thorough instruction in heredity and the bearing of sexual morality and immorality on future generations, and special instruction as to the character and the dangers of venereal diseases. While in individual cases such instruction is sometimes needed earlier and should be given privately, the general presentation of the subject should be reserved until later adolescence, on the general principle that any particular phase of sex instruction should be given only when it is needed as a protection from real harm.

16. It is not desirable that there should be specially set lessons in sex instruction in schools; but such instruction, in all but exceptional cases, should form a natural part of the courses in nature study, biology, hygiene, and ethics.

17. All instruction in reproduction in plants and in animals below mammals can be given in co-educational classes. Instruction in reproduction in mammals may usually best be given in separate classes; and instruction in human reproduction should always be given in separate classes, and each class should be taught by a teacher of their own sex.

18. If certain pupils need instruction beyond the needs of the class as a whole, such instruction should in all cases be given privately. The extent to which general instruction

in human reproduction and sexual morality may with advantage be given in class instead of privately depends so much on the character and maturity of the class and on the personality of the teacher that no general rule can be laid down; it must be left largely to the tact and judgment of the teacher.

19. While sex instruction in its reference to human life should not be attempted by all teachers, but should be given by those who have special qualifications for it, both personal and academic, it is not desirable that any teacher should make a specialty of this type of instruction and of no other. We do not want "sex specialists" any more than we want special courses in sex instruction detached from the courses in science and ethics of which they naturally form an integral part. All that should be demanded of such a teacher is that he should have a thorough and accurate knowledge of the scientific facts involved, and possess the personal qualities and the teaching tact and skill necessary for effectively presenting the subject. Other things being equal, it is better that one of the regular corps of teachers in elementary schools, whom the pupils personally know and who has a firm moral hold on them, should give this instruction, than that a specialist who is a stranger should come in and be known to the pupils as the teacher of this subject alone. In secondary schools and in colleges, such instruction would naturally be given by the teachers of biology, of hygiene, and of ethics, and by the physical director.

20. In order that some teachers possessing the necessary personal qualifications may be trained to give this instruction, and in order that all teachers may have such general knowledge of it as to be in intelligent sympathy with special teachers and lend them their support, all normal schools and all departments of education in colleges and universities should provide the necessary courses to meet this need.

21. As many pupils do not enter a secondary school, or even complete the course in the elementary schools, it is essential that sex instruction be given in the regular

evening schools, which such pupils now generally attend in most cities of the country. This instruction in evening schools, because of the shortness of the term of such schools, may profitably emphasize the human and most vital aspects of the subject somewhat at the expense of its broader biological treatment. It is essential that such instruction cover the topics of most vital importance to the pupil, and not stop short of that by devoting too much of the limited time available to more or less preliminary topics. It is needless to add that for purposes of this instruction students must be classified according to age and not according to general scholarship.

22. As parents should naturally give much of this instruction to their own children, and as comparatively few of them are qualified to give it, systematic courses of lectures should be provided for them at public expense.

23. Courses in sex instruction, carefully adapted to the age of those taught, should be organized in Young Men's Christian Associations and in various types of Boys' Clubs; such classes have, in fact, been formed in many such associations and clubs.

In conclusion, your Committee would emphasize the necessity of good judgment and tact in introducing sex instruction into schools. It should not be introduced prematurely, but only so fast as teachers can be found or trained who are competent to give it, and so fast as public sentiment will support it. On the other hand, undue weight must not be given to the difficulties attending such instruction even under present conditions, inasmuch as even occasional mistakes will do far less harm than allowing children to continue to gain this knowledge, as many of them now do, from impure sources—receiving a pernicious first impression which induces in them an attitude of mind toward the subject that makes it extremely difficult later to give them the best instruction. In not a few such cases subsequent sound teaching is practically fruitless.

Respectfully submitted,

MAURICE A. BIGELOW,

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} Committee.

APPENDIX.

PROPOSITION I.

The well-known facts concerning the widespread ignorance, misunderstanding, and misuse of the human sexual function point clearly to the need of special instruction of young people in the scientific principles of sex.

Affirmative, 91; Negative, 0; Doubtful, 5.

COMMENTS AND SUGGESTIONS.

1. Such instruction should not be separated from its natural place in teaching anatomy, physiology, hygiene, morals and religion. To single it out for a special course violates the fundamental principles of education and excites morbid interest. (Professor C. R. Henderson, University of Chicago.)

2. The need for such instruction is four-fold: (a) Hygienic and eugenic—better sex health and better progeny; (b) The control of venereal diseases; (c) To save young people from needless mental disturbance over normal sexual phenomena, and to save them from the impositions of quackery; (d) To change the attitude from the present one of total avoidance, or a subject fit only for lewd conversation, to one of serious respect. (Professor Peter Frandsen, University of Nevada, Reno.)

3. I would emphasize the need of special instruction on the basis of facts that are intelligible and can be applied by both parents and teachers. The school and the home must co-operate to secure the best results, and the sort of instruction that is given in each is in my judgment necessarily different though complementary. (Samuel McCune Lindsay, Director, New York School of Philanthropy.)

4. Inquiries made some 15 years ago in New England, Minnesota, California, and in thirty cities of Pennsylvania, all revealed a shocking condition among children, indicating great need of sex instruction; and the answers to 2,000 letters of inquiry sent 18 months ago to school superintendents and principals in all the States of the Union confirmed the judgment. (Josiah Strong, President, American Institute of Social Service, New York.)

5. Would place very little stress upon the words "special" and "scientific." (William D. Parkinson, Superintendent of Schools, Waltham, Mass.)

6. Such instruction should have for its primary aim the training of children and young people for parenthood and for racial responsibility. The emphasis upon personal and sex phases should be minimized. The emphasis upon eugenics and obligation in relation to reproduction and parenthood should be stressed. (Thomas D. Wood M.D., Teachers College, Columbia University, New York.)

PROPOSITION II.

As it is well established that few parents are both qualified and willing to give their children this vital instruction, it is necessary that such instruction be given in the public schools, both elementary and high, in colleges, and in other organized educational agencies.

Affirmative, 73; Negative, 7; Doubtful, 11.

COMMENTS AND SUGGESTIONS.

1. I deem the professional teacher of mature years to be the one to do this. The parent should merely supplement. (L. J. Corbly, Principal, Marshall College, State Normal School, Huntington, W. Va.)

2. I do not believe that this instruction can with safety be entrusted to the ordinary grade teacher. (D. C. Hull, President, Millsaps College, Jackson, Miss.)

3. This instruction in elementary form I believe must be given before the age of ten. Primary teachers are not equipped to give it; hence I suggest that talks to parents, especially to mothers of children of these early years, should be given. Where parents are altogether ignorant, perhaps instruction should be attempted in the schools, but only by persons who are specially qualified to undertake such work. The grade teacher is not likely to be so qualified. (Professor C. H. Levermore, Adelphi College, Brooklyn, N. Y.)

4. The first step is to instruct parents how to do this duty in helping their children. We can do this long before we can induce school boards to permit such instruction to be given in mixed schools. (Professor C. R. Henderson, University of Chicago.)

5. I believe in sex instruction in schools, but neither parents nor teachers are yet ready for it. (Chas. S. Meek, Superintendent of Education, Boise, Idaho.)

PROPOSITION III.

The scientific basis of sex instruction should be laid in the biological nature study of elementary schools and the biological courses of higher schools and colleges. Beginning with the nature-study lessons of the primary grades, life histories of living things should be emphasized. In the advanced nature study of the grammar grades and the biology courses of the high school there should be a gradual presentation of the leading biological facts of animal and plant reproduction. It should also be incorporated into courses in hygiene and in ethics.

Affirmative, 80; Negative, 3; Doubtful, 3.

COMMENTS AND SUGGESTIONS.

1. Beginning should be made in colleges, normal schools and universities in the way of training teachers to give such instruction in secondary and elementary schools.

2. I should be inclined to lay a good deal of emphasis on the moral side. I do not believe that any mere presentation of the physiological facts will give the results desired. (Henry C. King, President, Oberlin College, Oberlin, Ohio.)

3. There is danger in repeating the same instruction so often through the grades that it become ineffective, and pupils lose interest in it, as in the case of temperance instruction. (Herbert Welch, President, Ohio Wesleyan University, Delaware, Ohio.)

4. Most effective is simple, direct moral instruction, with emphasis on the physical penalty for the breach of moral law. (E. D. Warfield, President, Lafayette College, Easton, Pa.)

5. Shall never have enough tactful teachers in the elementary schools, hence instruction should be given by carefully selected specialists. (Charles S. Chapin, Principal, State Normal School, Montclair, N. J.)

6. Not sure about main proposition, but certain that it should be incorporated in hygiene and ethics. (Henry Whittemore, Principal, State Normal School, Framingham, Mass.)

7. This proposed scientific knowledge will not reach the question of higher morality. There is need for something more of character training. (H. H. Seerley, President, Iowa State Teachers College, Cedar Falls.)

8. The chief difficulty lies in the securing of appropriate textbooks and teachers. The public conscience on such matters varies with each section or locality. (H. G. Shearin, President, Hamilton College for Women, Lexington, Ky.)

9. These needs may be met in the following ways: (a) Repro-

duction as a universal living phenomenon should be taught to young children in connection with nature study. This will be a potent means for changing our present social attitude toward matters of sex. (b) Mammalian and human reproduction taught to upper grammar grades in the course in physiology and hygiene, and supplemented by separate talks to boys and girls at the adolescent age by specially qualified teachers or lecturers. (c) In the high school there is needed a course which may be called "Civic Biology," whose purpose it should be to create an intelligent attitude toward such public questions as conservation of natural resources, municipal and national sanitary problems, heredity and eugenics, by emphasis upon the interrelations between living things and the laws of biology. An historical account of the victories won in the control of infectious diseases will pave the way for emphatic discussion of the venereal disease problem. (d) In the college, general lectures on personal and public hygiene, and special courses in biology and hygiene for teachers. (e) Lectures for the general public in connection with the college, the church, and other social organizations. (Professor Peter Frandsen, University of Nevada, Reno.)

PROPOSITION IV.

Specific instruction, applying the biological facts to human life is needed, preferably at the end of the biology course in the early years of high school.

Affirmative, 75; Negative, 1; Doubtful, 2.

COMMENTS AND SUGGESTIONS.

1. I believe there is great danger of over-emphasizing the facts of anatomy and physiology of human reproduction in early adolescence. The special physiology of this period is apt to be disregarded. (Thomas D. Wood, M.D., Teachers College, Columbia University, New York.)

2. Such instruction cannot be confined to those who pursue biology courses; and any required course in biology must fall short of real scientific instruction. (William D. Parkinson, Superintendent of Schools, Waltham, Mass.)

3. This is too late. It should not be given to mixed classes. (Henry C. Pearson, Principal, Horace Mann Elementary School, Teachers College, New York.)

4. Yes, but this is too late for many boys and girls; first, because they do not go to the high school; second, much evil is done before, and the age of puberty has too far advanced. (A. H. Wilde, President, University of Arizona, Tucson.)

5. It should be at the end of the biology course. (Theodore Kemp, President, Illinois Wesleyan University, Bloomington, Ill.)

6. The essential facts must be given before this age, or there may be much to undo.

7. During the first half of a four years' course. (Professor Edward L. Thorndike, Teachers College, Columbia University, New York.)

8. Unfortunately, only a small fraction of the pupils who enter high school ever take a course in biology. Biology teaching in high schools will have to change its methods considerably before such instruction can be made to fit naturally into the course. (David Starr Jordan, President, Leland Stanford Junior University, Stanford University, Cal.)

9. I believe this is true, and the earlier the better in the high school course. It may be necessary to reach some boys even in the grades. Teachers should be wise enough, watchful enough, to know such cases, and provide the necessary knowledge. (Professor Chas. A. Shull, University of Kansas, Lawrence.)

10. Should be given in the eighth, and probably even in the seventh grade.

11. In my judgment, the application should be made not later than the first year of the high school. A year or two earlier would be better. (Professor Edward D. Collins, Middlebury College, Middlebury, Vermont.)

PROPOSITION V.

Since numerous pupils never reach the high school, there is need of some definitely organized instruction relating to human life for pupils of grammar school ages. This is the most difficult problem now apparent.

Affirmative, 73; Negative, 6; Doubtful, 9.

COMMENTS AND SUGGESTIONS.

1. This is a difficult problem. Carefully planned talks with the pupils segregated or with good careful books in their hands would help. Preferably, however, the subjects should grow out of some of their other studies, notably nature-study. (Theodore Kemp, President, Illinois Wesleyan University, Bloomington, Ill.)

2. Direct instruction at this age is the easiest, as far as the pupil is concerned.

3. Human physiology is usually taught in the grades, and this should be part of the study of that subject, as well as the other functions of the body. (Professor J. V. Breitweiser, Colorado College, Colorado Springs.)

4. This is important, but there is special danger of forcing instruction at this age in the effort to guard pupils of thirteen to fifteen against the very real dangers which confront them. (Thomas D. Wood, M.D., Teachers College, Columbia University, New York.)

5. Parents must be aroused by meetings at the schoolhouse social centers where plain talks are given, to be passed by them to their children. (C. W. Fowler, Superintendent, Kentucky Military Institute, Lyndon, Ky.)

6. The chief lookout in the grades should be for the undue stimulation of the sex reflexes by uncleanness, improper clothing and the nature of the seats. I am thinking particularly of boys. I believe that a reduction of the temperature with proper humidity of the atmosphere of the school-room would do much to relieve conditions and the causes of undue sex excitement which lead in the end to sexual excess. (Professor G. E. Coghill, Denison University, Granville, Ohio.)

7. Most difficult of all, I believe; but something may be done with the private club organized by a competent teacher, where membership is voluntary and where the work of the club is held sacred. (G. L. Bowman, Principal, Dunn County Training School for Teachers, Menomonie, Wis.)

8. With the older pupils, ranging as they do from thirteen up, this problem should not be difficult—not more so than that of the high school pupil of the first and second years. (Charles H. Spooner, President, Norwich University, Northfield, Vt.)

9. Indeed the most difficult problem; for experience shows us that much knowledge of a varied nature is already possessed by these boys and girls. This knowledge is of such a character, and associated with such indecent expressions, that just how to present this instruction with the emphasis on the sacredness of the subject seems a task. To speak to one girl or boy may be easy, but to speak to twenty or more the teacher must be extremely tactful.

10. Might be done by competent physicians, a graduate nurse, or by skilled workers with children, meeting them in special classes. (E. G. Townsend, Acting President, Baylor Female College, Belton, Tex.)

11. In school systems, where the high school is well organized, may not the teacher of science in the high school be drafted into service for occasional lessons in the grammar grades?

12. Most of the teachers are too young to teach reproduction. The home should supplement this teaching. (A. B. Church, President, Buchtel College, Akron, Ohio.)

13. I think young children can often be taught more easily than the high school pupil, who is at an age especially likely to be open to bad suggestions. (Professor Charles H. Judd, University of Chicago.)

14. Correct, indeed! I have given this matter much thought and have concluded that the young people here in question must have a course that partakes of "first aid to the needy." Plain and concrete situations must be presented and two motives emphasized: (1) That of preserving physical health and the peace and happiness of the individual; (2) that of being clean and strong sexually and fully worthy of assuming the family relation. (Professor William A. McKeever, Kansas State Agricultural College, Manhattan.)

15. This is true; though we must push for "continuation schools" and vocational training, and for agencies for guiding and supervising adolescents up to 19 years of age. (Professor C. R. Henderson, University of Chicago.)

PROPOSITION VI.

Provision should be made for sex instruction in evening schools in forms adapted to the needs of the various types of students.

Affirmative, 72; Negative, 1; Doubtful, 2.

COMMENTS AND SUGGESTIONS.

1. Yes, especially for working girls. (Wm. Dinwiddie, Chancellor, Southwestern Presbyterian University, Clarksville, Tenn.)
2. Yes, and special public lectures suited respectively for young men, young women, married men and married women. (David Starr Jordan, President, Leland Stanford Junior University, Stanford University, Cal.)
3. An excellent suggestion. We have through a member of our class at Transylvania University given such instruction. In a night school in Lexington it was apparently very successful and much appreciated. (Professor Chas. A. Shull, University of Kansas, Lawrence.)
4. From the very nature of evening schools considerable conservatism should be shown in introducing such instruction. (J. C. Zeller, President, University of Puget Sound, Tacoma, Wash.)
5. This is a field of usefulness for the right man or woman, but I have seen well-meaning and highly intelligent speakers commit glaring errors, which left the condition worse than before. (Professor G. E. Coghill, Denison University, Granville, Ohio.)
6. A special teacher or a physician would be best to give such instruction. (Fred D. Cram, Normal Training Department, Mason City High School, Iowa.)
7. Yes, but in logical and natural relation to general hygiene, personal and public. (Professor Chas. R. Henderson, University of Chicago.)
8. Yes, by all means. In my opinion the worst kind of sexual pervert is to be found among the class of young persons whom the evening school is meant to serve. They have quit the day school early, and have gone to work, and have learned to place a low estimate upon human character. (Professor William A. McKeever, Kansas Agricultural College, Manhattan.)

PROPOSITION VII.

All special instruction which touches human life directly should be under specially selected and trained teachers. The average teacher should not undertake this direct teaching.

Affirmative, 87; Negative, 0; Doubtful, 6.

COMMENTS AND SUGGESTIONS.

1. It cannot be too strongly emphasized that all sex instruction should be in the hands of specialists. (Chas. S. Chapin, Principal, State Normal School, Montclair, N. J.)

2. The instruction as far as possible should be given systematically by such individuals as will command the respect and confidence of the pupils by reason of their training and experience. But where this cannot be secured, certain teachers of other subjects should be encouraged and by reason of their common sense could receive some training, and thus be prepared to impart this knowledge when no other way is open. (Professor C. B. Robertson, University of Pittsburgh.)

3. I think this is correct. And just as important as special preparation is special fitness. Personality counts nowhere more than here. (Chas. McKenny, President, Michigan State Normal College, Ypsilanti.)

4. This is the saner method of determining the worker. The trouble is that these special teachers will be strangers to those being taught, and their lessons will lack the personal touch. (H. H. Seerley, President, Iowa State Teachers College, Cedar Falls.)

5. I believe the direct human instruction which may be given in the early grades of the elementary schools should be given by the regular teacher, and not by a special teacher. (Thos. D. Wood, M.D., Teachers College, New York.)

6. By all means. In centers sufficiently large, special teachers can be secured. In other places, at least one teacher ought to be hired with this in view as a part of her work. (G. L. Bowman, Principal, Dunn Co. Training School for Teachers, Menomonie, Wis.)

7. I think these statements are probably correct. Yet the teachers chosen for the subject must indeed be specially selected, even from among those trained.

8. Specialized instruction should be given by specialists. Occasionally a teacher not engaged in this particular field of instruction can, however, render most valuable assistance. Teachers of physical education especially can render great aid. (Professor W. S. Sutton, University of Texas, Austin.)

9. I doubt this. I assent to the need of training, but the interpretation of human life is the business of the average teacher. It seems to

me the best instruction will not set this phase of human life apart from other phases, but will relate it as closely as possible; and I question whether the average teacher's inadequacy need be greater in this particular than in any other, or whether the selected teacher, except as summoned to the aid of the regular teacher, can be really effective. Certainly the regular teacher should be the one to keep open confidential communication with the pupil. (Wm. D. Parkinson, Superintendent of Schools, Waltham, Mass.)

10. It should be so from the bottom up. I should let the subject be touched by no amateur or young teacher, just as I think ordinary physiology ought to be taught by a trained teacher. I sincerely believe, furthermore, that only teachers of such type and character and personality as will at once command respect of a high order should be permitted to do this work. (L. J. Corbly, Principal, Marshall College, State Normal School, Huntington, W. Va.)

11. No ordinary teacher can do this effectively. A specialist must do it; but it must be one of full information, and with peculiar personal quality, inviting and inspiring confidence. (A. H. Wilde, President, University of Arizona, Tucson.)

12. Under ideal conditions, instruction should be given by parents. If not by them, then by some qualified person who has the confidence of the child; certainly not by teachers generally in class instruction. It should be a personal and individual matter. (Henry C. Pearson, Principal, Horace Mann Elementary School, Teachers College, New York.)

13. In most schools you cannot have special teachers. (Herbert Welch, President, Ohio Wesleyan University, Delaware.)

14. With this I agree whole-heartedly. Will it be possible to prevent the bungling of the teacher "who thinks she can?" This is the one subject of all subjects that requires the finest insight, tact and skill.

15. I am in accord with this. The direct teaching should be done by the specially trained teacher, but all teachers should be required to inform themselves thoroughly regarding the matter. (Professor Wm. A. McKeever, Kansas State Agricultural College, Manhattan.)

16. I do not want any "sex specialists." I do want biologists who know the proper proportions of other educational factors. (Professor C. R. Henderson, University of Chicago.)

17. Personally I think every teacher, average as well as others, should be compelled to take a course in sex instruction. Such courses should be a required part of every normal school curriculum. Just at present the special teacher is certainly needed. (Professor C. A. Shull, University of Kansas, Lawrence.)

18. While the average teacher should not undertake direct teaching, she must be able to do a great deal in an indirect way. (David Starr Jordan, President, Leland Stanford Junior University, Stanford University, Cal.)

PROPOSITION VIII.

In order to appreciate the problems and co-operate with special teachers, all teachers should know the fundamental biological, hygienic, and ethical facts relating to sex-processes. To this end, teachers' training schools should offer courses of biology and selected reading which will give the needed knowledge.

Affirmative, 82; Negative, 0; Doubtful, 8.

COMMENTS AND SUGGESTIONS.

1. No certificate should be granted without completion of such a course. (Wm. Dinwiddie, Chancellor, Southwestern Presbyterian University, Clarksville, Tenn.)

2. The qualifications of such a teacher or teachers must be equally moral and scientific. I believe that but few men can give themselves persistently and exclusively to work with the sex problem without becoming more or less morbid on the subject. For this reason, I believe that the most valuable and trustworthy teachers will come from among the advanced students of pure biology and physiology, who, from purely moral conviction on the subject, strike a blow wherever and whenever opportunity arises. (Professor G. E. Coghill, Denison University, Granville, Ohio.)

3. This is necessary. There is no use hiring a specialist who does not have intelligent support. The life of the teacher is a potent factor here. (Fred D. Cram, Normal Training Department, Mason City High School, Iowa.)

4. Yes, but mere knowledge does not fully qualify one to give the instruction. Personality of the instructor is of the first importance. (H. A. Garfield, President, Williams College, Williamstown, Mass.)

5. All teachers' training schools should have a thorough course in preparation for every question relating to wifehood and motherhood as well as fatherhood.

6. Yes, it is another way of saying that the normal schools have a great opportunity. They are now neglecting it. (Fred W. Atkinson, President, Polytechnic Institute of Brooklyn, N. Y.)

7. As a temporary expedient, the special teacher might meet the grade teachers monthly or semi-monthly for the purpose of informing them of his plans and aims. (D. C. Hull, President, Millsaps College, Jackson, Miss.)

8. Every normal school and every college should have such courses. (George A. Harter, President, Delaware College, Newark, Del.)

9. Some instruction should certainly be given on this subject to

all teachers going out from training schools. It should be made sufficiently scientific to command their respect, and be shorn of all sentimentality and prudishness. (Professor C. B. Robertson, University of Pittsburgh, Penna.)

10. All teachers should know, especially in this field, much more than they attempt to teach, in order that a broad context for sound judgment may be secured. (Thomas D. Wood, M.D., Teachers College, New York.)

11. Yes, and summer schools also. There is no better time and place for such instruction. (Arthur H. Wilde, President, University of Arizona, Tucson.)

12. The average teacher is a person of very meagre knowledge of this subject. In addition to the foregoing, I should have the course include detailed information as to how the young fall into sex errors, and as to the means of preventing such errors. (Professor Wm. A. McKeever, Kansas State Agricultural College, Manhattan.)

13. Merely to instruct the teachers in the specific facts of sex is insufficient. They must be better grounded in the whole psychology of the individual's moral and social development. (David Starr Jordan, President, Leland Stanford Junior University, Stanford University, Cal.)

PROPOSITION IX.

While the nature-study and biology classes may be co-educational, as abundant experience has proved, the special application of biological facts to human life should be in separate classes.

Affirmative, 82; Negative, 0; Doubtful, 5.

COMMENTS AND SUGGESTIONS.

1. Yes, as the instruction grows specialized it should be given to the sexes separately. (Professor Wm. A. McKeever, Kansas State Agricultural College, Manhattan.)

2. I do not know about this. The separation of the sexes for this instruction does seem necessary, but this may be just a relic of our old-time taboos of the whole matter. (Professor Edward L. Thorndike, Teachers College, New York.)

3. I believe this is true. Proper questions that will respond to natural curiosity should be fully and frankly answered. These questions will not be asked in classes in which both boys and girls are present, and they would be hard or impossible to answer. (Arthur H. Wilde, President, University of Arizona, Tucson.)

4. I have for five years been teaching a class of men in a course of lectures in college on personal sexual hygiene. A large group of college women, all of whom have had a year in collegiate biology, have now requested me to give them a similar course of lectures next year. Since this request is purely spontaneous on their part, I take it as good evidence that the college girl of today is ready for scientific instruction in the problems of sex. (Professor G. E. Coghill, Denison University, Granville, Ohio.)

5. Sex hygiene should not be taught to mixed classes, but always to separate classes, and by persons of the same sex as those being taught. (Julius C. Zeller, President, University of Puget Sound, Tacoma, Wash.)

6. This may be so; but I am inclined to favor open, serious, reverent frankness that might help especially older students to consider these subjects together as sacred and pure. (D. M. Metzger, Dean, Dallas College, Dallas, Oregon.)

7. More and more must the class work be made co-educational in order to purify the air of false attitudes toward sex and sex functions and sex pleasures; but we must begin with the divided class and the small class; never large classes. This is too personal a matter to be done in "massed" classes. (L. J. Corbly, Principal, Marshall College, State Normal School, Huntington, W. Va.)

8. With rare exceptions, yes. Sometimes exigencies arise which

make it advisable to throw aside ordinary reserve and make a lesson more impressive from that very fact. (Wm. D. Parkinson, Superintendent of Schools, Waltham, Mass.)

9. Yes, I think so. Otherwise that freedom of questioning and confidence which the teacher of sex hygiene desires to stimulate will certainly be lacking. Besides, modesty would demand this care. Even in the family such instruction is given privately.

10. Nothing should be co-educational that really touches sex in animals, else it would be so obscure, so wrongly suggestive, or so extravagant as to miss the point needed to be reached. (H. H. Seerley, President, Iowa State Teachers College, Cedar Falls, Iowa.)

11. I should prefer that all the facts of animal reproduction should be treated in separate classes. (Professor P. Wardlaw, University of South Carolina, Columbia.)

12. Not necessarily in separate classes in colleges. Special lectures on hygiene, including matters relating to sex, have been given before the entire student body, including both men and women, at the University of Nevada, without apparent objection. (Professor R. Adams, University of Nevada, Reno.)

13. Yes, with pupils over 11 years of age. (Professor Edward D. Collins, Middlebury College, Middlebury, Vt.)

14. In exceptional cases, I expect that separation would be unnecessary. Certain details, of course, should be presented to the sexes separately, but need not all or always be so presented. There is definite value in dealing with these subjects in the matter-of-course way which holds for other subjects. (Charles H. Spooner, President, Norwich University, Northfield, Vt.)

15. I am sure that the first work mentioned should be co-educational. It is possible that as we become better educated ourselves we shall find that we can go further in co-educational classes than we now are able to do. (Frank A. Manny, Director of the Training of Teachers, Baltimore, Md.)

PROPOSITION X.

Special lectures under the auspices of clubs, churches and other associations interested in general education, should be established in order that the sex-education movement may reach parents and young people who are not connected with schools.

Affirmative, 86; Negative, 0; Doubtful, 0.

COMMENTS AND SUGGESTIONS.

1. I am not so sure, however, that any except parents and adults could be reached in this public way without certain manifest dangers. (Professor W. G. Chambers, University of Pittsburgh, Penna.)
2. Yes, but the special lectures should form part of a *series* so that the relations of things, higher and lower, should not be broken and perspective lost. (Professor Chas. R. Henderson, University of Chicago, Ill.)
3. This is the first step in the movement. Only through an enlightened public sentiment can sex hygiene be introduced into the public schools. I have had some experience in this matter. (Charles McKenny, President, Michigan State Normal College, Ypsilanti.)
4. This is a good suggestion. All ministers should be enlisted to throw open doors to this work. It is surprising how conservative some ministers are in this respect. (Professor Chas. A. Shull, University of Kansas, Lawrence.)
5. Lectures to parents, certainly. Following those to parents only, would it not be well to arrange a course of lectures to parents accompanied by their children? This would tend to establish mutual confidence between parent and child. (H. A. Garfield, President, Williams College, Williamstown, Mass.)
6. These should be given almost without exception by doctors. (Fred W. Atkinson, President, Polytechnic Institute of Brooklyn, N. Y.)
7. Doubt it for young people. Yes, for parents. (Professor Chas. H. Judd, University of Chicago, Ill.)
8. This is the most immediate need. If the public is not brought into line, the public mind will counteract and set at naught all the instruction that can be given in school. School instruction belied by men and women outside of school is liable to render pupils proof against all future lessons. (Wm. D. Parkinson, Superintendent of Schools, Waltham, Mass.)
9. I must insist on care lest the personal attitude and interest, which can come alone with small classes and also classes of the same rank in culture as far as possible, be lost sight of, and this entire work be made commonplace in thought and in treatment, which re-

sult would be fatal to the high purpose in view. (L. J. Corbly, Principal, Marshall College, State Normal School, Huntington, W. Va.)

10. Lectures should be chiefly for parents. Children and young people should be reached so far as possible through the parents. (Professor G. E. Coghill, Denison University, Granville, Ohio.)

11. The women's-club movement all over the country is the best agency for this, and is an organization already at hand. But where there is no such club, some other public-spirited organization should take it up. Why should not the church do this, and put itself in touch with great social problems? Why should not State boards of health do this work for communities where there are no clubs to do it—doing it in connection with local physicians? (Arthur H. Wilde, President, University of Arizona, Tucson.)

PROPOSITION XI.

The above propositions refer to instruction in normal sex-processes. Such instruction should obviously be made basal. But at the proper time, instruction should be given also as to: (1) the danger of unnatural and unhygienic sex-habits; (2) licentious or irregular sexual indulgence; (3) and later, the impressive facts relating to the dangers of social diseases, and the consequences to themselves and others. Instruction in regard to the last two should be given only to the upper classes of the high school and to students in college, by carefully selected instructors, preferably by those with special training in medicine or physiology, and at the same time possessing tact and skill; but all teachers should be prepared to help individual students who may need advice.

Affirmative, 85; Negative, 3; Doubtful, 2.

COMMENTS AND SUGGESTIONS.

1. Doctors often lack pedagogic insight. A well-trained teacher, reasonably well read in sex physiology and current medical literature is best equipped for giving such instruction. (Professor Wm. A. McKeever, Kansas State Agricultural College, Manhattan.)

2. All schools, grammar as well as high schools, should have consulting school physicians. They can do much to meet this need. (Julius C. Zeller, President, University of Puget Sound, Tacoma, Wash.)

3. The normal sex processes are not what most lecturers give. They find the abnormal the more attractive to society, and hence they deal with the diseases. (H. H. Seerley, President, Iowa State Teachers College, Cedar Falls.)

4. At the beginning, the restriction of instruction to high schools and colleges will be wise, but eventually this knowledge should be given to the larger number who do not reach the high school. (Professor R. Adams, University of Nevada, Reno.)

5. It may be well to give all this information at a much earlier period—as soon as it can be understood. Twenty-five years ago it might have been argued that young boys and girls would not be liable to these disorders, and little likely to hear about them; neither of these conditions holds to-day. (Charles H. Spooner, President, Norwich University, Northfield, Vt.)

6. I fear that it will be necessary that children even younger than the upper classes of the high school need to have information about social diseases.

7. While I feel that it should be done, I am oppressed with the

fear that through undue haste, over-zealousness and lack of tact much harm may be done.

8. Earlier, if circumstances permit. Much damage is done to young boys by the tramp woman in the smaller centers of population. (G. L. Bowman, Principal, Dunn Co. Training School for Teachers, Menomonie, Wis.)

9. Instruction concerning the consequences of these diseases should not be greatly delayed. There are too many cases of immoral relations between high school boys and girls. In some reform schools for girls it has been found that most of those who enter over eleven years of age are prostitutes, although technically "truants."

10. I am not in favor of elaborating these evils. An immoral person can be reached most effectively by personal contact. I do not believe in teaching these points as a separate section, but as illustrative material in the constructive work.

11. Boys should have this information at fifteen or earlier, and it should be repeated two or three times every year through school and college. (C. W. Fowler, Superintendent, Kentucky Military Institute, Lyndon, Ky.)

12. I agree heartily with (1) and (3). I would cut out (2) for the present. (Henry Whittemore, Principal, State Normal School, Framingham, Mass.)

13. Should be given to individuals in private. (Professor George H. Tapy, Wabash College, Crawfordsville, Ind.)

14. This is done in Bowdoin College by the college physician and director of the gymnasium who is a physician and also professor of bacteriology in the medical school. We also have a special lecturer on this subject, who is a practising physician, each year. (Wm. DeWitt Hyde, President, Bowdoin College, Brunswick, Maine.)

15. This belongs, in my opinion, to the individual case, or to the college class. Only very little of it belongs in the schools, and that, for the most part, to the physical education classes. (Professor Chas. H. Judd, University of Chicago, Ill.)

16. Yes, with emphasis on the last two lines. Many physicians have lived in the atmosphere of cynicism so long as to unfit them to address the young with that optimism which they require. All teachers should be prepared to follow up sympathetically the clues once started. (Wm. D. Parkinson, Superintendent of Schools, Waltham, Mass.)

17. The relation of alcoholism to sexual debauch should be emphasized. The age and time of the more specific treatment of social disease should probably vary with the community. As much of this work as possible should be done by private interview. (Professor G. E. Coghill, Denison University, Granville, Ohio.)

PROPOSITION XII.

While instruction concerning abnormal conditions is largely a problem relating to adolescents, some direction of individuals is sadly needed by many children in the two or three pre-adolescent years; and it is to be hoped that every school will finally have one or more competent persons (principal, nurse, doctor, or teacher) able to deal effectively with the individuals needing help.

Affirmative, 81; Negative, 0; Doubtful, 5.

COMMENTS AND SUGGESTIONS.

1. This is demonstrated in a great city, but in all towns and cities many children, even in the best families, have started down even before the age of 10. A very necessary activity is the study of the child's home surroundings; and it is also necessary to convince parents that children at an early age may have wrong notions and incipient vices. (Arthur H. Wilde, President, University of Arizona, Tucson.)
2. These cases should be dealt with individually. (E. G. Townsend, Acting President, Baylor Female College, Belton, Texas.)
3. Yes, give a healthy interest in athletics, avoid morbid-mindedness and let them have a pure source for sex knowledge. (Professor J. V. Breitweiser, Colorado College, Colorado Springs.)
4. The nurses do not receive training, as a rule, that will make them competent to meet the child's need on any plane except purely physical.
5. Instruction concerning normal conditions is very desirable. I presume abnormal conditions may be a deterrent to the adult. (Geo. A. Harter, President, Delaware College, Newark, Dela.)
6. The school nurse is probably destined to play a large part in the sex enlightenment of young girls. (David Starr Jordan, President, Leland Stanford Junior University, Stanford University, Cal.)
7. Children needing help, I think, are best reached by the principal or teacher. They can gain their confidence.
8. In cities, school physicians and nurses could do much, but no reason why teachers should not know enough to handle every situation arising. (Professor Chas. A. Shull, University of Kansas, Lawrence.)
9. This may be done personally without special teacher, by the *right* man or woman. (Professor Richard E. Dodge, Teachers College, Columbia University, New York.)
10. The pre-adolescent instruction is especially important. Too often the later instruction comes convincingly, but at a time when erroneous habits have taken hold and cannot be broken.

PROPOSITION XIII.

The introduction of sex-instruction into the public educational system should be made carefully and with due regard to local conditions, such as the attitude of school officials, public opinion, and the availability of specially trained teachers. Nothing could be more undesirable than precipitate introduction of sex-instruction by propagandic legislators or by over zealous school officials. Far better results are to be expected if the teachers and parents interested in each school are first awakened to the need of special instruction; and then the work should be developed gradually, quietly, conservatively, and on a sure foundation.

Affirmative, 90; Negative, 0; Doubtful, 4.

COMMENTS AND SUGGESTIONS.

1. We must be free to feel our way. The cocksure person and methods are both dangerous. It is necessary to be honest with children; but the diplomatist who should tell the truth in unrestrained terms would give a false impression, and so would the teacher of children. (Wm. D. Parkinson, Superintendent of Schools, Waltham, Mass.)

2. A broad training in biology cannot be too much emphasized as an essential preparation. The biology work in our normal schools should be strengthened with reference to this fact.

3. I agree with this. Scores of people are rushing into print on this subject in an impulsive way. They mean well, but know so little that their proposed methods are often seriously questionable and even dangerous. I like the plan, but for practical reasons would not introduce a large amount of the heavy scientific matter from medical science, physiology and the like. (Professor Wm. A. McKeever, Kansas State Agricultural College, Manhattan.)

GENERAL SUGGESTIONS.

I believe I am in hearty support of your main propositions regarding instruction in sex hygiene. I think we have not yet found out just who is the right person to give such instruction. It is not enough to say that it should be given by a doctor of medicine. It must be a person not only of training and knowledge, but of great wisdom and temperamental balance. I am least satisfied with placing the instruction in the hands of representatives of physical culture. Biologists as such I am doubtful about, though they would *a priori* seem to be the right persons to conduct such work. The trouble with them is lack on the side of the human element. The scope of the plan you outline seems from the prospectus to cover very properly the ground that should be covered.—(Benjamin Ide Wheeler, President, University of California, Berkeley.)

The subject is one of the very greatest importance, and will have to be worked out, it seems to me, on the lines that you have suggested. That is, in some way we must educate our people and, in order to do this, we must begin in the schools.—(R. E. Blackwell, President, Randolph-Macon College, Ashland, Va.)

I strongly believe that steps should be taken to inform properly children, young men and young women, and older men and women concerning reproduction in plants, the lower animals and man and to inculcate into the mind of every person the right attitude, particularly toward the perpetuation of the human family. I also believe that the consequences of immorality should be impressed upon all in the most forceful way possible. Lessons in reproduction should be introduced low down in the grades beginning with plant reproduction and gradually advancing and reaching up to the reproduction of man. I am strongly convinced that we should deal plainly with the reproductive organs, their functions, their hygiene, and the causes of their diseases, and the great calamity that comes to the human family by licentious and irregular indulgence. (J. T. Kingsbury, President, University of Utah, Salt Lake City.)

OUTLINE OF WORK

PROJECTED BY

THE AMERICAN FEDERATION FOR SEX HYGIENE.

1913.

1. The completion of the Founders' Fund.
2. The maintenance of a central office in New York, and in connection therewith a Sex Hygiene Exhibit and library.
3. The organization of live State societies and the encouragement of the latter to colonize the cities and towns with branch societies for the furthering of sex hygiene.
4. The systematic education of the American people with regard to the intimate relation between—
 - (1) The social diseases, and morbidity and mortality among innocent persons.
 - (2) The alcohol traffic, prostitution, and the social diseases.
 - (3) Low dance and music halls and moving picture shows, prostitution, and the social diseases.
 - (4) Mental deficiency, criminality, prostitution, and the social diseases.
 - (5) Lack of home interest and care, improper dressing, late hours, improper companions, and prostitution, and the social diseases.
 - (6) The lack of legitimate amusement;
The unlivable, starvation wage;
Uncongenial, unhygienic home surroundings;
An unsatisfied craving for finery and luxuries;
The general belief that a comfortable income, and that, with the latter, a freedom from restriction and care attend upon immorality;
The intimate relation of all the foregoing to clandestine and public prostitution and the social diseases.

Also, with respect to the urgent need of—

- (1) A shorter work day, and the forbidding of night work, for boys and girls under 21 years of age.
 - (2) A minimum wage for women and girls.
 - (3) The raising of the age of consent to 21 years.
 - (4) The offering to her prospective husband and the requiring by the marrying girl prior to her marriage of a certificate from her own physician of freedom from transmissible disease.
 - (5) An insistence upon a clean moral record as indispensable to clean moral health on the part of a marrying male.
 - (6) The entire lack of justification of clandestine or public immorality on the basis of physical need.
 - (7) An insistence by all women upon the observance of a single standard of moral and physical health for the two sexes.
5. The preparation and publication of useful educational literature, including a monthly Journal of Sex Hygiene.
 6. A systematic campaign for the public, official recognition of and the free treatment of the social diseases.
 7. Sane legislation, providing for:—
 - (1) The listing of syphilis and gonococcus disease with the reportable contagions (reported by number, not by name).
 - (2) The empowering of the municipal and other authorities to handle and control cases of syphilis and gonococcus disease when manifestly a menace to the public health.
 - (3) The compelling, so far as practicable, of hospitals and dispensaries receiving State and municipal aid to treat free of charge all cases of syphilis and gonococcus disease on pain of the withdrawal of public assistance in the event of failure to comply with the requirement.

List of American Societies for Sex Hygiene

CALIFORNIA

Social Hygiene Society of Los Angeles,
Clifford Howard, Secretary, 811 Higgins Building, Los Angeles.
California Social Hygiene Society,
C. M. Wollenberg, Secretary, Relief Home, San Francisco.

COLORADO

Colorado Society for Social Health,
Dr. Ethel M. Fraser, Secretary, 1434 Glenarm St., Denver.

CONNECTICUT

The Connecticut Society of Social Hygiene,
Dr. Thomas N. Hepburn, Secretary, 42 High St., Hartford.

DELAWARE

The Delaware Society of Social Hygiene,
Dr. Victor D. Washburn, 526 Washington St., Wilmington.

DISTRICT OF COLUMBIA

The Society of Social Hygiene,
Dr. Elnora C. Folkmar, 1839 Ontario Place, Washington.

ILLINOIS

Chicago Society of Social Hygiene,
Dr. Wm. T. Belfield, Secretary, 308 Reliance Building, Chicago.

INDIANA

The Indiana Society of Social Hygiene,
Dr. H. G. Hamer, Secretary, Newton Claypole Building, Indianapolis.

MARYLAND

Maryland Society of Social Hygiene,
Dr. Donald R. Hooker, Secretary, Cedar Lawn, Baltimore.

MASSACHUSETTS

Massachusetts Society for Sex Education,
Charles W. Birtwell, Secretary, 7 Hancock Ave., Boston.

MICHIGAN

Detroit Society for Sex Hygiene,
Raymond E. Van Syckle, Secretary, 33 High St. East, Detroit.
Washtenaw County Social Hygiene Association,
Miss Agnes Inglis, 1985 Geddes Ave., Ann Arbor.

MISSOURI

St. Louis Society of Sanitary and Moral Prophylaxis,
E. A. Hildebrandt, Secretary, 615 Chestnut St., St. Louis.

NEW JERSEY

The New Jersey Society for the Prevention of the Social Diseases,
Dr. Thomas N. Gray, Secretary, East Orange.

NEW YORK

Buffalo Society of Sanitary and Moral Prophylaxis,
Miss Ada M. Gates, Secretary, Buffalo.
The Society of Sanitary and Moral Prophylaxis,
Dr. Henry P. de Forest, Secretary, 105 West 40th St., New York City.
Syracuse Society for the Prevention of Social Diseases,
Rev. E. A. Burnham, Secretary, Syracuse.

OKLAHOMA

Oklahoma Society for Social and Moral Hygiene,
Dr. Herbert L. Wright, Secretary, Hugo.

OREGON

Social Hygiene Society of Portland,
Dr. G. Norman Pease, Secretary, Medical Building, Portland.

PENNSYLVANIA

Pennsylvania Society for the Prevention of Social Disease,
Dr. Robert N. Willson, Secretary, 1708 Locust St., Philadelphia.

TEXAS

The Texas State Society of Social Hygiene,
Dr. T. Y. Hull, Secretary, San Antonio.

WASHINGTON

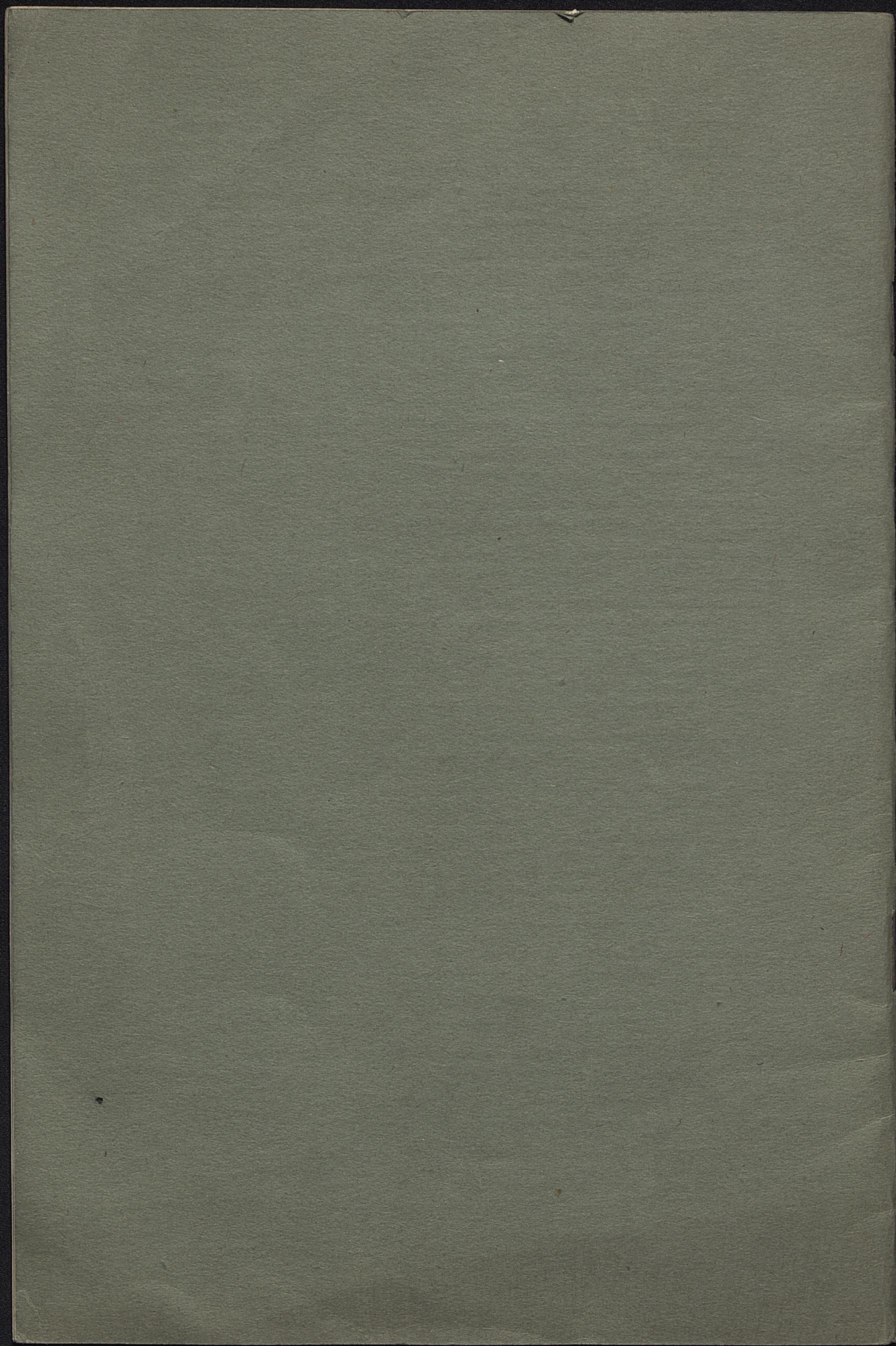
The Society of Social and Moral Hygiene of Seattle,
Dr. Sydney Strong, Secretary, League Building, Seattle.
The Spokane Society of Social and Moral Hygiene,
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WEST VIRGINIA

The West Virginia Society of Social Hygiene,
Otis G. Wilson, Secretary, Elkins.

WISCONSIN

Milwaukee Society of Sanitary and Moral Prophylaxis,
W. T. Stephens, Secretary, Milwaukee.



THE accompanying pamphlet, to which your attention is invited, is not merely a committee report, but a document which summarizes the opinions of college presidents, teachers and social workers throughout the entire country on a vital matter of public health and public morals. It represents a movement which is being made, not only in the United States but in western European countries as well, to mitigate and control an evil whose remote but serious effects upon the innocent are just becoming known to the non-medical public.

THE AMERICAN FEDERATION
FOR SEX HYGIENE

105 West Fortieth Street
New York City.

Loose Item

THE
TEACHING OF
SEX HYGIENE

By
PRINCE A. MORROW, M.D.

THE AMERICAN FEDERATION
FOR SEX HYGIENE

Tilden Building, 105 West 40th Street
NEW YORK CITY

REPRINTED at the request of the Executive Committee of the American Federation for Sex Hygiene, by courtesy of the Good Housekeeping Magazine, from the March, 1912, issue.

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GOOD HOUSEKEEPING MAGAZINE

Printed by
Frederick H. Hitchcock
105 West 40th Street
New York

THE TEACHING OF SEX HYGIENE

THE hygiene of the sex function relates not only to the health of the individual but has special reference to the particular purpose that function is designed to serve. So far as we can apprehend Nature's design in the sexual life of humanity, the specific and supreme purpose of the sex function is reproduction—the transmission of life to the next generation. The office of hygiene is not limited to the care of the health of the existing generation, but embraces in its object the health of the descendants. The hygiene of sex has for its ultimate object the insuring of the production of healthy offspring.

Should young people be instructed in the laws and hygiene of sex? Should educational hygiene be regarded as a rational part of our system of education?

OUR PAST POLICY

In surveying the educational field, no fact is more apparent than that it has not been so regarded by parents and teachers.

For centuries past, our educational system, both parental and scholastic, has been organized on a basis of silence and secrecy in everything relating to sex. In the teaching of the home and school the sexual organization of the individual has been entirely ignored. Tradition has imposed upon the instructors of youth an edict of silence upon everything relating to human reproduction. The elementary textbooks used in the schools in describing the structure and functions of the human body have rigorously excluded all mention of a reproductive system, as if it were practically non-existent. While a knowledge of other functions of the body is considered a rational part of education, all knowledge relating to the laws of life and reproduction is deemed improper and unfit.

There can, however, be no greater satire upon Creative Wisdom than to assume that a knowledge of the function which is given to coöperate in the Divine mission of creation, and to which the life of the race is entrusted, is not fit to be taught to young people. Viewed rightly, the subject of sex, the ever-recurring miracle of generation and birth is, in the language of Hon. Canon Lyttleton, "full of nobleness, purity and health." The attitude of parents and pedagogues would

seem to justify the characterization of sex as "an indiscretion, if not a positive impropriety, on the part of the Creator."

IMPORTANCE OF THE SUBJECT

It would appear that educators of youth look upon sex as an unfortunate or at least an inconvenient attribute of human nature, and act upon the principle that the only safe plan is to ignore its existence. And yet they should know that, from a biological point of view, the sex function is the most important function of the body, and is intimately connected with the physical, mental and moral development. Its right use is the surest basis of individual health, happiness and usefulness in life, as well as of racial permanence and prosperity. Its abuse or misuse is the cause of a vast deal of disease and misery. The physical consequences of unclean living represent, in the opinion of competent observers, fully one-eighth of all the diseases which afflict humanity. In the period of life from the fifteenth to the twenty-fifth year, it is probable that the unnatural or irregular exercise of the sex function causes more suffering, physical and mental, than all other diseases taken together.

The same social sentiment which places a premium upon ignorance, by withhold-

ing all knowledge of the laws and hygiene of sex is responsible for covering up and concealing the consequences of the sexual errors due largely to this enforced ignorance. It is only in the confessional of the consulting room, in the dispensaries, hospitals and other public institutions, that one can gain any adequate conception of the enormous toll in the shape of suffering, disease and death exacted by nature for a violation of her laws, resulting from ignorance and sexual impurity.

Marriage and parentage are the most important and momentous events of human life because conditioning the most vital interests of the individual and the future of the race. The aim of sex hygiene is to direct the exercise of the reproductive function in the legitimate way imposed by marriage and for the purpose of procreation.

A more forceful significance is given to the importance of sex hygiene by the increased recognition of the racial value of the child and the important rôle played by heredity in determining its life destiny. Upon how people mate depends the quality of the offspring, and upon the quality of the offspring hangs the destiny of the nation. This gives a new and more exalted conception of the responsibilities of parentage.

SEXUAL DISEASES

The introduction into marriage of diseases which come from the irregular exercise of the sex function is responsible for some of the saddest and most tragic experiences of human life. In addition to their ruinous effect upon the health and lives of wives and mothers, they engender a vast mass of disease and misery in the descendants. The special significance of this class of diseases as a danger to the family and the race is due to the fact that they specifically affect the system of generation.

One of these infections produces a sterilizing effect upon the procreative capacity of both men and women; the other poisons the sources of life and so vitiates the processes of nutrition that the product of conception is killed outright or blighted in its normal development. The children who escape with their lives are physical and mental weaklings stamped with organic defects, which, if they grow up and marry, may be transmitted to the third generation.

In tracing the causes of these infections in married life and their pitiable and tragic consequences, it is found that they are due largely to ignorance and the lack of moral training in the young. The

recognition of this fact has been the chief impelling motive to the inauguration of the campaign for sex hygiene.

WHO SHOULD BE TEACHER?

The problem of teaching sex hygiene is primarily a problem for parents, and the ideal place for sex teaching is the home, since the foundations of what may be termed the sexual character are laid in early youth. The ideals and principles instilled in this formative period are apt to determine the attitude toward sex and sex relations throughout life. The majority of parents, however, are disinclined or incompetent to give this instruction judiciously and effectively, and the duty necessarily devolves upon the schools.

Many parents are silent because they fear to soil the "crystal purity of the youthful mind" with a thought or suggestion of anything so shameful as sex. If ignorance were a preservative of innocence, if their silence shielded youth from sexual errors, it might be justified. But there is nothing more fatuous than the belief that they succeed. The objection urged by some that sex education would stimulate an unhealthy curiosity, and focus the imagination upon sexual matters, is scarcely more valid. Curiosity about the

origin of life and sex already exists; it is implanted by nature. If it is not satisfied from pure sources it will be fed from impure and tainted sources. It must be the pure wholesome education of the home or the corrupt teaching of the streets; there has been no alternative.

FACTS TO BE TAUGHT

Time and space will not permit the formulation of a complete program of the education proposed. In a general way it may be said that the facts of life and sex should be given to children by their parents when the age of curiosity and understanding is reached. The child's questions as to the origin of life should be answered honestly and frankly. This instruction should safeguard the child's mind from the contamination of impure knowledge and serve as a preparation for more specific and definite knowledge in the future. Before the pubertal age the boy should be instructed in a knowledge of the true meaning and right uses of the reproductive function and in the phenomena of his sexual nature; the significance of these phenomena, their relation to his physical health and well-being; and the necessity of the control of the sex impulse.

Girls should be informed by their mothers of the phenomenon of periodicity

in relation to the maternal function and the importance of the care of the health during this period.

The education begun at home should be continued and completed in the schools. There is a general consensus of opinion among those who have studied this subject, that the teaching of sex in the schools should be conducted along biological lines, taking botany and zoölogy for the basis of such instruction. The normal processes of reproduction in plants and lower animals should be taught, unfolding the beauties and mysteries of the great law of reproduction which runs throughout all animate nature. The knowledge of the processes inseparable from reproduction in animals furnishes analogies which may be applied to similar processes in human reproduction. This instruction may be given a purely intellectual direction, and does not appeal to sensuality as it is altogether impersonal. Nature's wonderful method of continuing the life of the universe creates a wholesome attitude of mind toward the processes of the renewal of human life as something pure and sacred.

The bacteriological phases of biology afford valuable lessons which may be applied to human life. The fact that sound seed is absolutely essential to the production of healthy plants and that seed

bacteria inhibit normal growth and development, even in the most favorable soil, would admit of most impressive application of the fact that human bacteria or diseased germs are most inimical to the creation of healthy human beings and their normal growth and development.

Instruction relating to sexual diseases, their pathological significance and their consequences to the individual and to others, would come with more weight from a physician. Not only should these physical dangers be exposed, but the fact should be impressed that they are almost inseparable from irregular sex relations. When moral considerations would not avail, a wholesome fear of infection may act as a restraint. Especially should young men be instructed in the knowledge of the fact that continence is not harmful, but compatible with the highest physical and mental vigor, and that the doctrine of the sexual necessity for men, which has always been invoked in support of a double standard of morals, is a physiological fallacy, and has been disproved by the experience of thousands of men who have lived continent and useful lives.

ATTITUDE OF TEACHERS

There exists, among the great body of teachers, doubt as to the propriety of this

innovation, and even an opposition to its introduction. Among the more intelligent and advanced instructors, however, especially the biology teachers, there is a receptive and responsive attitude. There are others fully impressed with the importance of such teaching, who are skeptical as to its practicability.

At the Mannheim Conference on Sex Pedagogy, May, 1907, there was a three days' discussion of the teaching of sex in schools and colleges which was participated in by the most distinguished pedagogists and physicians in Germany. There was a general consensus of opinion that sex should be taught in the secondary school classes and the colleges and universities, and by some it was urged that it should be taught in the elementary schools. All agreed that while instruction in the origin of life should be given in the home and at an early age, the majority of parents were not qualified to give it, and that the duty therefore devolved upon teachers, and should be an integral part of the course of study in all normal schools.

WHERE SEX HYGIENE IS TAUGHT

In most of the states of Germany, courses of sex pedagogy for advanced high school students have been established. As these students are discharged from school,

they are enlightened by medical lectures on the nature and peril of venereal diseases. There have also been established lectures for parents in order to enable them to deal intelligently with the sexual problem in the education of their children. Somewhat similar work is being done in France, and the teaching of sex has been made mandatory in the Lycees by the Minister of Public Instruction.

In this country a number of biological teachers have, of their own initiative, inaugurated the biological teaching of sex in high schools and colleges. A collective investigation, now in process but as yet incomplete, made by the school health committee of the National Educational Association, shows that the subject of personal and sex hygiene is taught in 138 schools. The subject is reported as "required" in 53 and "elective" in 15; 68 did not specifically answer the question. In 86 schools classes are separate, and in 23 mixed. Physical examination is required in 87.

In the state of Washington each normal school provides instruction in sex hygiene. This is made mandatory by the State Board of Education. Attendance upon lectures is obligatory upon all students who apply for certificates or diplomas. Two periods a week for one semester is required

of all students, and credit is given for this work. The lectures are given separately to classes of boys and girls, and never to mixed classes. The subject is treated more especially in relation to its biological, pedagogical and physiological aspects. The pathological aspects are treated, but not with undue emphasis. No systematic plan of teaching has thus far been formulated.

An outline, however, has been prepared by the Superintendent of Public Education.

The course briefly outlined is concerned: I—with the primary principles of biology, (a) protoplasm, (b) life, (c) the cell theory, (d) germ cells and their life cycle; II—the evolution of sex; III—human reproduction presenting the (a) anatomical and (b) physiological phases briefly, (c) embryological development touching upon prenatal influences, (d) birth; IV—the phenomena of adolescence, physical and psychical, the girl and boy problem and its solution, adolescent reading and amusements; V—the pathology of sex onanism among school children, causation and treatment, social diseases and the social evil. (The phase of the subject will be treated briefly, for it is not believed that anything is to be gained by emphasizing the abnormal in sex); VI—sociological aspects of

sex, (a) recognized social conventions, what they are for and their meaning, (b) the nature and obligations of the family and the sanctity of the home, (c) the centripetal tendencies of family life against the centrifugal tendencies of industrial life, (d) studies of the theories of inheritance and environment, (e) eugenics, (f) infant mortality, causes and prevention, (g) race suicide and the duties of educators in the preservation of the race.

At the October meeting of the American Society of Sanitary and Moral Prophylaxis, papers were read by President Stanley Hall of Clark University and Professor Bigelow of Teachers College, Columbia University, and were discussed by leading members of the Biological Teachers Association. The opinion was freely expressed that sex instruction forms an absolutely essential part of a rational education, and that the benefits to be derived from the biological teaching of sex were so great that all opposition thereto was bound to disappear. The necessity of such teaching was held to be too evident to be discussed. The question now was one of matter and methods—the facts to be taught, the study of specific methods, the adaptation to the age and mentality of the youth, and the training of teachers in normal schools for this important work.

It is evident, however, that the introduction of sex instruction in schools will not entirely solve the problem of the education of the rising generation in sex hygiene. The society above referred to has recognized this fact and endeavors to reach boys and young women of the working classes through conferences and lectures and educational literature. Several hundred lectures have been given in New York City before various social groups; in the settlements; in boys' neighborhood clubs; to factory boys and girls; in the department stores, etc. One of the most valuable aids has been the lectures before the mothers' meetings of the pupils of the public schools. This work has also been undertaken by various societies organized throughout the country with similar aims and purposes.

It is believed that the National Federation for Sex Hygiene, of which President Emeritus Eliot of Harvard is the Honorary President, will give most effective aid in this work. The most obvious needs of the situation are the formulation of a systematic course of instruction, the preparation of suitable text-books, the standardization of sex literature, and the education of teachers to qualify them for giving instruction in sex hygiene.

Children of America's Fund

Oak Hill

Newton Centre, Mass.

A Grave Danger to America's Twenty Million Children

Never has civilization faced a graver crisis than to-day, when great nations, the organized supporters of truth, justice and love, have cast aside these great ideals, which man has struggled so long to express, and are murdering each other in barbaric war. Never have our churches had a greater burden or a greater opportunity to uphold and prove their great ideals. According as we handle this terrible situation, civilization will go forward or backward by mighty strides.

In normal times, we keep from our children even pictures and books of murder, cruelty, hatred, lying and other evil influences. We guide their pity in generous, helpful acts to those in need and suffering. To-day every paper is filled with pictures of war-fields covered with dead; with pictures of helpless men, women and children, homeless, starving; with stories of the successful accomplishment of lying, selfish diplomacy. These influences of lying, hatred, murder and awful suffering are moulding and hardening the lives of America's twenty million children and arousing unexpressed pity. They are ruining their noblest ideals and threatening to crush out the truth, justice, love and helpfulness we have tried to teach them. A short time ago the Titanic disaster, the Messina earthquake, aroused our deepest pity and sympathy. The recent Italian earthquake was but an incident of this destructive war-time and hardly caused a tremor. If the pity of adults is frozen and their sensibilities are numbed, how much more are these influences withering the far more tender sensibilities of our unformed children.

This overpowering danger creates an opportunity equally great, if only we face the facts and act with promptness and wisdom.

A nation-wide relief movement has been started under the name of the Children of America's Fund to turn our children's minds from destructive murder to helpful life-giving, and in this way to build on the appalling need a strong, helpful race of men and women. Funds raised are to be used—one-half to relieve local suffering, one-half to relieve the awful suffering in Europe.

It is the plan to accomplish this purpose by instructive, helpful work in and out of school, in which the most skillful guidance in art, manual training, music, entertainments, school gardening, sewing shall be given by the central organization to the children of the country where needed.

On the National Advisory Board are many of the leading educators and editors of the country including

CHARLES W. ELIOT, President-Emeritus of Harvard University.

DAVID STARR JORDAN, President of the National Educational Association.

RICHARD C. MACLAURIN, President of Massachusetts Institute of Technology.

E. A. ALDERMAN, President of the University of Virginia.

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JOHN G. HIBBEN, President of Princeton University.

GEORGE E. VINCENT, President of the University of Minnesota.

BENJAMIN I. WHEELER, President of the University of California.

REV. FREDERICK LYNCH, D.D., Secretary of The Church Peace Union, Editor of *Christian Work*.

Our children can raise at least \$1,000,000 without burden on any one, as the funds are to be raised in small sums—the people's gift through their children. They can make millions of needed articles of clothing and other things. Working shoulder to shoulder to offset the influences of organized murderous war, they will feel the quickening, helpful impulse of their great life-giving organization—a mighty impulse in their lives and a great example to the world.

Children are to *earn* the money and *make* needed articles of clothing, as it is essential that each feel that he has worked or sacrificed to help.

You can help in any or all of the following ways at once:

1. By arousing your congregation, your community and the press to this terrible danger.
2. By interesting your public schools and co-operating fully with any efforts they may make.
3. By starting your congregation, adults and children, in entertainments and in forming them into "We Are Seven" Clubs, by which seven persons each giving five cents a week will keep one starving child alive.

Write immediately for full working details to the Children of America's Fund, Oak Hill, Newton Centre, Mass.

In this awful time, our people are groping for guidance as never before. Parents, friends, neighbors will join their children in this great relief movement "and a little child shall lead them" in an expressed religion of kindly, helpful acts toward "Peace on Earth, Good Will to Men."

HORACE K. TURNER,

Oak Hill, Newton Centre, Mass.

Child 



Confidence



Rewarded.

By MARY WOOD ALLEN, M. D.

CHILD-CONFIDENCE REWARDED.

BY

MARY WOOD ALLEN, M. D.

SUPERINTENDENT OF THE PURITY DEPARTMENT,
AND LECTURER OF THE NATIONAL WOMAN'S
CHRISTIAN TEMPERANCE UNION.

(Author of "Teaching Truth," "The Marvels of Our Bodily Dwelling," "Motherhood," "Almost a Man," etc.)

"All that is good in me I owe to my mother."

—JOHN QUINCY ADAMS.

"Happy he

With such a mother. Faith in womankind
Beats with his blood, a trust in all things high
Comes easy to him, and though he trip and fall,
He shall not blind his soul with clay."

—TENNYSON.

Printed in United States.

ANN ARBOR, MICH.

WOOD-ALLEN PUBLISHING COMPANY,

7 IMPERIAL ARCADE,

LUDGATE CIRCUS, LONDON, E. C.

THE REALLY REASON WHY.

Mamma, why is it that the sun
Shines only in the day?
Why does he shine so nice and warm
When he's so far away?
Why are the stars so very large?
Each one looks like a spark,
Why does the moon shine when it's light,
And never when it's dark?
Why are the summers always warm,
The winters always cold?
Why is it that each year must die
When only one year old?
And why can't little children be
As big as their papas?
And when I ask you questions, ma,
Why do you say "Because?"
Why is it, mamma, when it rains
So cloudy in the sky?
I'd like to know 'bout lots of things
The really reason why.
And there's some other sorts of things
I'd like to ask about,
Only you always say "Hush, hush!"
And so I can't find out.
The boys at school they tell me tales
That don't seem nice and clean.
I wish you'd tell me, so I'd know
What these things really mean;
Because, you see, I know, mamma,
You never, never lie,
So, if you 'splained it, why 'twould be
The really reason why.

Mary Inod Allen

CHILD-CONFIDENCE REWARDED.

BY MARY WOOD ALLEN, M. D.

Truth is fair; should we forego it?
Can we sigh right for a wrong?
God himself is the best poet,
And the real is his song.
Sing his truth out fair and full
And secure his beautiful.

O brave poets, keep back nothing.
Nor mix falsehood with the whole;
Look up God-ward; speak the truth in
Worthy song from earnest soul;
Hold in high poetic duty;
Truest truth the fairest beauty.

— MRS. BROWNING.

“If my mamma says it’s so, its so, even if it isn’t so.” This rather paradoxical statement of the little girl is but the expression of the absolute confidence of every child in its parents until some direct or willful act has lessened or destroyed it. Even the knowledge that the parent makes mistakes will not, of necessity, destroy confidence in his truthfulness; but the discovery that an equivocation has been practiced is a blow to future trust.

A clergyman once said to me: “I went to my mother in childhood with an honest question about myself, and she told me what I afterward learned was a deliberate falsehood, and I never again went to her for information, but I obtained it from sources, and in ways that would have grieved her gentle heart. She

might have saved me from this stain, but she lost her opportunity." This golden opportunity is lost by every parent who allows chance to usurp his or her especial privilege as the child's first teacher of vital truths.

The child is an animated interrogation point, and it is not ignoble curiosity, but a commendable desire for knowledge, that leads him to continually ask, "Why?" "Whence?" "Whither?" His own logical powers compel him to seek the premises from which a conclusion has been drawn, or to follow the premises on to the inevitable conclusion. Nature is to him an open book which he delights in, and which he has a God-given right to read; and if he cannot spell out the hard words without help, his parents are divinely ordained to be his teachers.

The mystery of life early suggests itself, and "Whence am I?" is to him as serious a problem as it is to the adult, who puzzles over it, and adds to it the "Whither am I going?" To the child, however, it is not the theological, nor the psychological query that is puzzling, but the simple physiological fact, "I am here, but how did I get here?"

In all probability, this is the crowning question of a series of problems that have presented themselves to his inquiring mind. He has planted the seed of the flower, and, after a time of impatient waiting, he is rewarded by the sight of the tiny baby plant. He has seen the patient hen sitting on her nest day after day, and at last the baby chicks, in all their golden fluffiness, have peeped their first note in his delighted ears. He has watched the mother-bird brooding over the beautiful eggs in the nest in the rose-vine, and has finally seen the nest full of the gaping mouths of baby birds. Some day a new family of kittens or puppies has gladdened his eyes; and when the new baby ap-

peared to claim a place in the family circle his joy has been unbounded. But all this has been suggesting the query which at last springs to his lips: "Where do all these new living creatures come from?" and having honestly asked, he must receive an honest answer.

If the instructor feels any embarrassment in answering the queries of the child, he is not fitted to be the teacher, for the feeling of embarrassment will, in some subtle way, communicate itself to the child, and he will experience an indefinable sense of offended delicacy which is both unnecessary and undesirable. Purification of one's own thought is, then, the first step towards teaching the truth purely.

The close of earthly life is surrounded by us with pathos and dignity, but the beginning is shrouded with a veil of evil mystery, through which we peep with a gaze that sullies the majesty of being. But why is death, the gateway out of life, any more dignified or pathetic than birth, the gateway into life? Or why is the taking of earthly life a more awful fact than the giving of life? To take life simply closes one sphere of action and opens another. To give life confers all the possibilities of earthly experience and of eternal existence. Which is the more responsible deed?

The power of giving life is embodied in the fact of sex, a fact indubitable, inevitable. Sex is openly recognized as a controlling factor in every human life. The first question asked regarding the new-born child is in regard to sex. "Is it a boy or girl?" The answer to this query largely determines its destiny. Sex decides the style of dress. Sex indicates the appropriate games, toys and amusements. Sex indicates the character of the education. Sex modifies the choice of occupation. Sex determines the position in the family, in the church, in society, in the nation. Sex regulates

the manners, and even, in the minds of many, settles the question of morals. The burden of sex is laid upon the girl, the liberty of sex is accorded to the boy. This is society as it is organized to-day.

But this is not all. While claiming to be very silent on the subject, we are all the time teaching our children a consciousness of sex in a way that has a pernicious influence on morals. Not long ago a father turned to his little son at the table and asked, "Well, Tom, have you seen your sweetheart to-day?" "Yes, sir," replied the four-year-old very gravely. The father looked at me with a smile that implied great appreciation of the humor of the incident, and continued to banter the little fellow about being a beau and a lover.

In a quiet conversation with the mother afterward, I said I thought such jesting objectionable, and she said, "I did not suppose Tommy knew what a sweetheart was till I asked him, and he said, 'O, yes, I do, mamma, you hug 'em and kiss 'em.'"

This boy was not being taught the true manly chivalry that treats every younger or weaker creature with a courteous and protecting care, but was instructed by the jests of the parents to treat girls with a familiarity which the girl, in her babyhood, might allow, but which, in after years, she must be taught to resent.

There would be no harm in the artless affection of the children if it were allowed to be as innocent as the love between boy and boy, or girl and girl. But while the parents are thus directly teaching sex-consciousness, in all probability they would be horrified at the thought of giving scientific instruction in regard to facts of sex, surrounding those facts with no ideas of romance or sentimentality.

The children, in fact, are taught to play on the edge of a precipice, while the knowledge of the precipice

must be carefully hidden from them. If, later in life, they step over into the abyss, the boy is helped out with the comforting assurance that "Wild oats must be sown," while the girl is left to sink down to an ignominious grave.

We are not content to let our foolish jesting stop with the little ones, but must continue it through life, and the whole fabric of society is tinged with the idea that the relation of the sexes must, of necessity, involve the passion of love. The boys and girls in their early teens do not associate in frank comradeship but think and talk of love, of beaux and sweethearts, and as they grow older they enter into hasty engagements to break them as hastily and without compunction, or they become each afraid of the other, fearing lest a friendly interest may be misunderstood to mean something more. "I don't dare to be frankly friendly with a young man," said a bright, sensible girl, "for, if I am, he at once begins to put on lover-like airs, or to act as if he thought I were setting my cap for him; and, on the other hand, if he shows an interest in me, I begin to feel afraid that he may be developing into a lover; or if we are both sensibly friendly, then all the older folks begin to plague us about each other, even in each other's presence, until our association becomes painfully embarrassing. Why can't we be allowed to be just good friends, without being all the time made counscious that we are boy and girl?"

Malthus says: "If violations of chastity were equally dishonorable in both sexes, a more familiar and friendly intercourse between them might take place without danger. Two young people might converse together intimately without it being immediately supposed that they either intended marriage or intrigue, and a much better opportunity would be given to both

sexes of finding out kindred dispositions, and of forming strong and lasting attachments, without which the married state is much more productive of misery than of happiness. Passion, instead of being extinguished as it now too frequently is by early sensuality, would only be repressed that it might afterward burn with a brighter, purer, steadier flame, and the married state, instead of being looked to as affording means of immediate indulgence, would be regarded as the prize of industry and virtue and reward of genuine attachment."

It is certainly a thought worthy one's most serious consideration that, in our foolish jesting on the subject of marriage, we are, in truth, teaching our young people to regard it carelessly, and so lower the dignity of love that it becomes a subject of light and foolish thought, resulting in hasty engagements, ill-considered marriages and speedy divorces.

Before we can become wise and pure instructors of youth on these great topics, we must cleanse our public press of those jests, the witticism of which consists in allusions to undue familiarity between young men and women. Our sense of purity has become so deadened by this foolish and wicked jesting that we laugh at the story of the young woman who intimates that the young man is not as familiar as she would like. We even go so far in our verbal wit as to insinuate that which, if true, would be a deadly insult. "I don't know that I can trust my husband alone with you," says a would-be witty wife, as she sees her spouse walk into the garden with a guest to show her his pet flowers. And every one laughs as if the insinuation were a compliment.

I was once greatly amused with a jest of this kind that was fiercely resented, simply because the woman was of a so-called lower class. She was a scrubbing-

woman engaged in cleaning a house. The master of the house was putting up pictures in the room where this woman was working. The mistress came in dressed for the street, and as she left the room to go on her errand, the scrubbing-woman called out, "Aren't you afraid to leave me and your husband here alone?"

If the woman had been young, pretty and on a social equality with the man and his wife, they would have laughed at her remark and have considered it very witty, but the thought underneath it would have been the same and unworthy of all concerned. Love and marriage are no themes for jesting, but are worthy of our most serious consideration and our wisest teaching.

Mrs. Jameson says: "Strange that the relation between the sexes, the passion of love, should not be taken into deeper consideration by our teachers and legislators. People educate and legislate as if there were no such thing in the world, but ask the priest and the physician, let them reveal the amount of moral and physical result from this one cause. Must love," she asks, "be ever discussed in blank verse, as if it were a thing to be played in tragedies or sung in song; a subject for pretty poems or wicked novels, having nothing to do with the prosaic current of our every-day existence, our moral welfare, and eternal salvation? Must love be ever treated with profaneness, as a mere illusion; or with shame, as a mere weakness; or with levity, as a mere accident? Whereas it is a great mystery and a great necessity, lying at the foundation of human existence, morality and happiness, mysterious, universal, inevitable as death. Love and Death, the Alpha and Omega of human life, the author and finisher of existence, the two points on which God's universe turns. Death must come, and love must come,

but the state in which they find us, whether astonished, blinded, frightened, and ignorant, or like reasonable creatures, guarded, prepared and fit to manage our own feelings; this we suppose depends upon ourselves, and for want of such self-management and self-knowledge look at the evils that ensue: hasty, improvident, unsuitable marriages; repining, diseased, or vicious celibacy; irretrievable infamy; cureless insanity. With childhood and youth thus freighted, O, see to it, parents, that your own hands hold the helm of destiny, rather than suffer such interests to be wafted by the gusts of casual influence, or driven upon the lee-shore of ruin by the monsoon of artfully excited passions."

At about fourteen years of age sex begins to make itself felt in the life of the individual. It affects the bodily contour, it changes the quality of voice, it makes its impress upon the emotional nature.

If sharp tools were of necessity to be put into the hands of a child, we should realize that instruction in the wise use of them would be needed, and if, by ignorance, the child were injured, we should blame ourselves more than we should him. The powers that come with the development of maturity, unless understood, are more dangerous than the sharpest razor, but the tacit teaching of society is, that parents and teachers must keep silent and leave the child to learn by his own experience, and also to suffer the results of his own ignorance.

The need of right teaching begins in babyhood in guarding against the formation of evil habits. Nurses, playmates, or an accident, may make the child acquainted with himself in a way to create the beginning of a habit that may ruin him bodily and mentally. I have even known a mother who ignorantly taught her child self-abuse, because she saw that in bathing him

she seemed to give him pleasure, and many, many mothers, who would know better than this, do not understand the evils of the habit, and will allow the child to play with himself because it keeps him still. Uncleanliness frequently causes the child to remove irritation by rubbing, and so introduces him to the habit of self-abuse. Constipation and pin worms are also exciting causes. Cleanliness, maintained with extreme caution as to the handling of the parts, is the mother's first duty. After this, the teaching of the child the holiness of the body. One mother taught her boy that these organs were the holy fountain of life and to be sacredly regarded. Of course, in his childhood, he did not comprehend what that meant, but he accepted it as true because his mother said so, and later she made a more complete explanation of the matter. It must not be supposed that only boys need this careful instruction. Girls also are liable to become victims to the habit and need watching and counsel.

The child will be especially interested in a description of his body as a house in which he lives, and, learning to care for his bodily dwelling in regard to those organs which are to keep him alive, his interest deepens when he learns of the organs which are to connect him with the human race. If the first information he receives of these organs and their use is from one who dignifies their office, and shows him the responsibility that rests upon him as a creator of the lives and destinies of others, he will have no low or vile idea connected with them, but will see that, in the conferring of sex, God has given a wonderful power which can raise humanity nearer to himself. We reverence God as Creator, we should reverence the creative power in ourselves and never allow it to be sullied by an evil thought or word.

If, at the period of life when the boy begins to feel the dawning of this new power, he were told by a wise father, mother, or teacher the meaning of it all, and the obligation he is under to control it, how different would be the result from that of our present method of silence, or of evil teaching! If he were taught that this new power is his to use, not for self-gratification, but for the benefit of the race, and that its control would contribute to his own strength and its indulgence would debilitate, he would see that his virile power is a divine trust, not for selfish pleasure, but for an unselfish benefaction to humanity in the calling into life of creatures endowed with the highest powers of mind and body, and the purest aspirations of spirit.

The girl, too, as she leaves childhood, needs to have wise instruction, both for her physical and moral welfare. Many women have been made invalids for life because they were frightened at appearances they did not understand, and which they imagined indicated some dreadful disease which they feared to disclose to mother or friend. Girls, too, have been led into sin because of ignorance of their own constitutions.

The special function of woman's bodily organization is by many received with rebellion, and regarded only as that which interferes with their pleasure. But supposing each girl were taught that in this function was expressed the conferring of a divine gift that rendered her of especial value to the human race, would she not receive it with a different spirit and care for her health more willingly? She is anxious to become a woman, to take her place in society, in the world, but it is the healthful maturing of the organs of the reproductive system that makes her a woman. Without these she is an individual, a soul, an intellect, but not

a woman. Without these she could not be wife nor mother, therefore, if wifehood and motherhood are desirable, then the wise understanding of one's self as a woman becomes desirable and necessary. Paul prays that "spirit, soul and body may be preserved blameless," and to do this mental, moral and physical instruction must be given.

If husband and wife have received this pure instruction and regard the body as a gift of God, its functions divinely ordained and to be held as sacred, they will then have the ability to give wise teaching to their children and to answer honestly and scientifically their innocent queries.

"Mamma, how big was I when I was made?" asked a little boy. It would have been easy in reply to have indicated the size of the new-born child, but this mother was too wise and far-seeing; she saw in this question her opportunity. Taking the child upon her knee, she said:

"When you were made, my dear, you were but a tiny speck, not so big as the point of a needle. You could not have been seen except with a microscope."

"Why, mamma, if I was as small as that I should think I would have been lost."

"So you would, dear child, if the kind Heavenly Father had not taken especial care of you. He knew how precious little babies are, and so he has made a little room in the mother's body, where they can be kept from all harm until they are big enough to live their own separate lives."

"And did I live in such a little room in you?"

"Yes, dear."

"But how did I eat and breathe?"

"I ate and breathed for you."

"Did you know I was there?"

"Yes. Sometimes your little hand or foot would knock on the wall of the room, and I would feel it and would say, 'my darling speaks to me and says, 'Mother, I am here;'' and then I would say, 'Good morning, little one, mother loves you;' and then I would try to think how you would look when I should see you."

"How long was I there. mamma?"

"Three-quarters of a year, and you grew and grew every day, and, because I wanted you to be happy, I tried to be happy all the time, and I was careful to eat good food so that you might be strong, and I tried to be gentle, kind, patient, persevering, in fact, everything that I wanted you to be, for I knew that everything I did would help to make you what you were to be."

"But, mamma, how did what you ate feed me?"

"My food was made into blood, and the blood was carried to you and nourished you."

"But how?"

"Did you ever see mamma make a dumpling?"

"Yes. You took the dough and put the apple in and gathered the dough all up in one place and pinched it together."

"Yes, and you are much like a dumpling. Your skin is folded around you like the dough around the apple and is gathered together in one place on the front of the body. We call it the navel or umbilicus. Before you were born the skin at this point was continued in a long cord which was connected with mamma, and through it the blood was carried to you. When the time came for you to go out into the world to live apart from me, the door of your little room opened with much pain and suffering to me, and then you came into the world, or were born, as we say. Then the cord, or tube, that connected you to me was cut, and, healing up, formed the navel or the place where

the skin of the whole body is gathered together. When you drew your first breath into your lungs, you cried, and then I knew you were alive and I laughed, and said, 'Is it a boy or girl?' After you were washed and dressed they brought you to me and laid you on my arm and for the first time I saw the face of the little baby I had loved so long. And now you can understand why you are so dear to me."

"O, mamma, now I know why I love you best of all the world," exclaimed the child, with warm embraces and with loving tears in his eyes. Was that not better than to have told him an untruth or even a half-truth, or to have left him to learn concerning himself from impure, thoughtless, or lying lips of some chance comrade or acquaintance?

I am often asked "How young should a child be told these things?" I reply "When he begins to ask questions." This time will differ in different children. I have in my possession a letter from a mother saying that her four-year-old son had often asked her "Where does the baby come from?" and she had postponed the reply. One morning he climbed into her bed and repeated his query. They were alone. She felt that his curiosity would lead him to ask the question of those who would give him an immediate, but probably an impure answer, and so she told him the truth. "I trembled," she writes, "as I did it, but I believe God led me, for when I concluded he kissed me over and over again, saying, 'Mamma, I love you so much, and this is our secret, isn't it?'"

This statement of the child indicates that he will as gladly keep the story a sweet secret with mother as he would keep it an evil secret with some one else.

A fear sometimes arises that evil thoughts will be awakened in the child's mind by this telling of the truth. But this will depend altogether on the way in

which it is told. There is never the same danger from the relation of the facts by the pure-minded father or mother as from the evil companion. I have yet to learn of one instance where, if the facts were judiciously given, the result was to be deplored. At the close of a lecture to women, a mother came to me saying: "I am so glad I heard you yesterday. Last night my little boy told me a story related to him by one of his friends that showed me he had been instructed as to the relation of the sexes and the result therefrom, but he said, 'It isn't so, is it, mamma?' If I had not heard you yesterday I should have scolded him and forbidden him to tell me such things; but you said we must hear all the children's confidences and then be ready to tell them the truth. Now, what shall I say to him, for I have promised that I would tell him the truth to-night."

We talked the matter over and that evening she took the child upon her knee and pointing to two glasses on the table said:

"What is there?"

"Why, a glass of clear water and one of dirty water."

"Which would you prefer to drink?"

"O, I wouldn't drink that muddy stuff."

"I am glad to hear that. Now, the story Jimmy told you yesterday was like this muddy water. Mamma will tell you one that is like the pure water. Both are water you see, but one is pure and the other is not. Jimmy's story was true, but it is not clean. Let me tell the clean story."

Shen then took a plant and explained how it grows. She showed the style, stigma and ovary, telling him they were the mother part of the plant; she then explained the anther and pollen as the father part of the plant and showed the seeds, lying in the ovary, as the baby plants.

"Do all plants and flowers have fathers and mothers and babies?" he asked.

"O, yes, and so do all animals. You love your mother because you know that you have a part of her in yourself. But you must have a part of father in yourself also in order that you may be as dear to him as to mother. This is God's plan, and you see it makes fathers and mothers and children very closely united to each other. It would not be possible for us to love any other little boy as well as we love you, for he would not be a part of ourselves. When you are a man and married, your children will be just so dear to you, and you would not want any one to tell them anything that would make them think of you or themselves in any way that was not pure and good. There is another thing I want you to know, and this is, that, by this plan of God's, you will be able to give your children your own talents. Even now, while you are a child, you are learning many things, doing many things and thinking many things, and all this is deciding what your children will be. If you are honest now your children will be more apt to be honest. If you are pure and good it will help to make them better, but if you are dishonest and evil in word or act it will make it easier for them to do wrong. God has given us great power over the welfare of our children, even while we are children ourselves. Of course, you want your children to be good and brave and true, clean in their lives and thoughts and words, therefore you must be yourself just what you want them to be." Very thoughtful was the little face, and silent were the lips. But the next morning, as he awoke, he lay still and absorbed in thought, and then said, "Mamma, it is a real serious thing to get married, isn't it?"

This, as may be imagined, opened the way for another serious conversation, and the impression made on that

child can only be estimated as we shall see the fruit in his after life. I believe, however, that it will be one that will not end with himself, but go on and on in the bettering of every life that shall draw its source from him.

The boy that has learned to reverence motherhood in his own mother will reverence it in other women, more especially in his wife. A lady writes to me from the far west, telling how her family lived at a distance of many miles from neighbors or physician. In her condition of expectant maternity she was at times, because of business exigencies, left alone with her fourteen-year-old son. She explained to him the situation and for days that boy slept with lantern lighted, pony saddled, and clothes on, ready to go for help if the hour of need should arise before morning. Years after, when he was married and his young wife was looking for the coming of her own little one, the mother-in-law began to give her some instructions in regard to the care of herself, but the wife replied, "Mother, you taught my husband when a boy how to care for me, and his thoughtful love lifts every burden from my shoulders." Is not this a lesson to mothers who, with children approaching maturity, shrink from making known to them the probable advent of a claimant for their love and care? In cases under my own observation, when mothers have taken their older children into their confidence, they have been touchingly surprised at the sweetness with which the news was received, and the tender feeling of interest manifested in the coming little one. A lad of seventeen who was earning his own living, on being informed of the prospect of an addition to the home circle, at once opened a bank account for the little stranger, and assured his mother that he should purchase the wardrobe

himself, and said, "I mean to educate the baby at my own expense."

The confidential relation between the mother and children also develops a beautiful feeling of living ownership in the baby that may be turned to great advantage. "I must do all I can to make mamma happy so that the baby will be happy," said one dear little girl. A little fellow drawing the baby in its wagon was asked:

"Whose baby is that?"

"O, it's my baby," was the reply.

"You mean its your mamma's baby."

"No, I don't. My mamma *borned* it, but it's my baby and I take care of it, and I am going to be just such a boy as I want it to be." So the baby, conceived in purity, loved in its pre-natal life, and welcomed to its earthly existence, has been a teacher of love, tenderness and morality, and is but another illustration of the Bible declaration that "A little child shall lead them."

We realize the dominion of the helpless baby in its cradle. Its tiny hands sway the scepter of power, and old and young yield their wishes to the demand of its need. But even before it has an independent existence, it should be a living influence in the home, sweetening the temper, purifying conversation, evoking love and tenderness, banishing rudeness and unkindness. For its sake home should be more hallowed and all the graces of character more ardently cultivated. That it may be unselfish, loyal, truthful, and pure, every member of the household should strive after loyalty, truth, and purity. That it may be obedient and reverence its earthly parents, they should reverence God and obey his commands, and the added life of the child thus be adding moral force to the home.

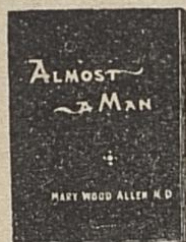


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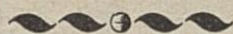
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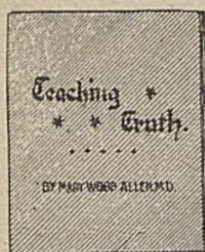


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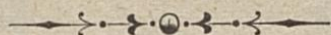
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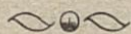


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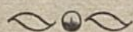
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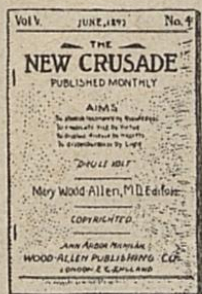
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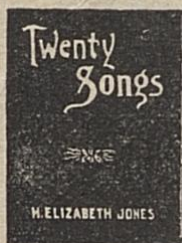
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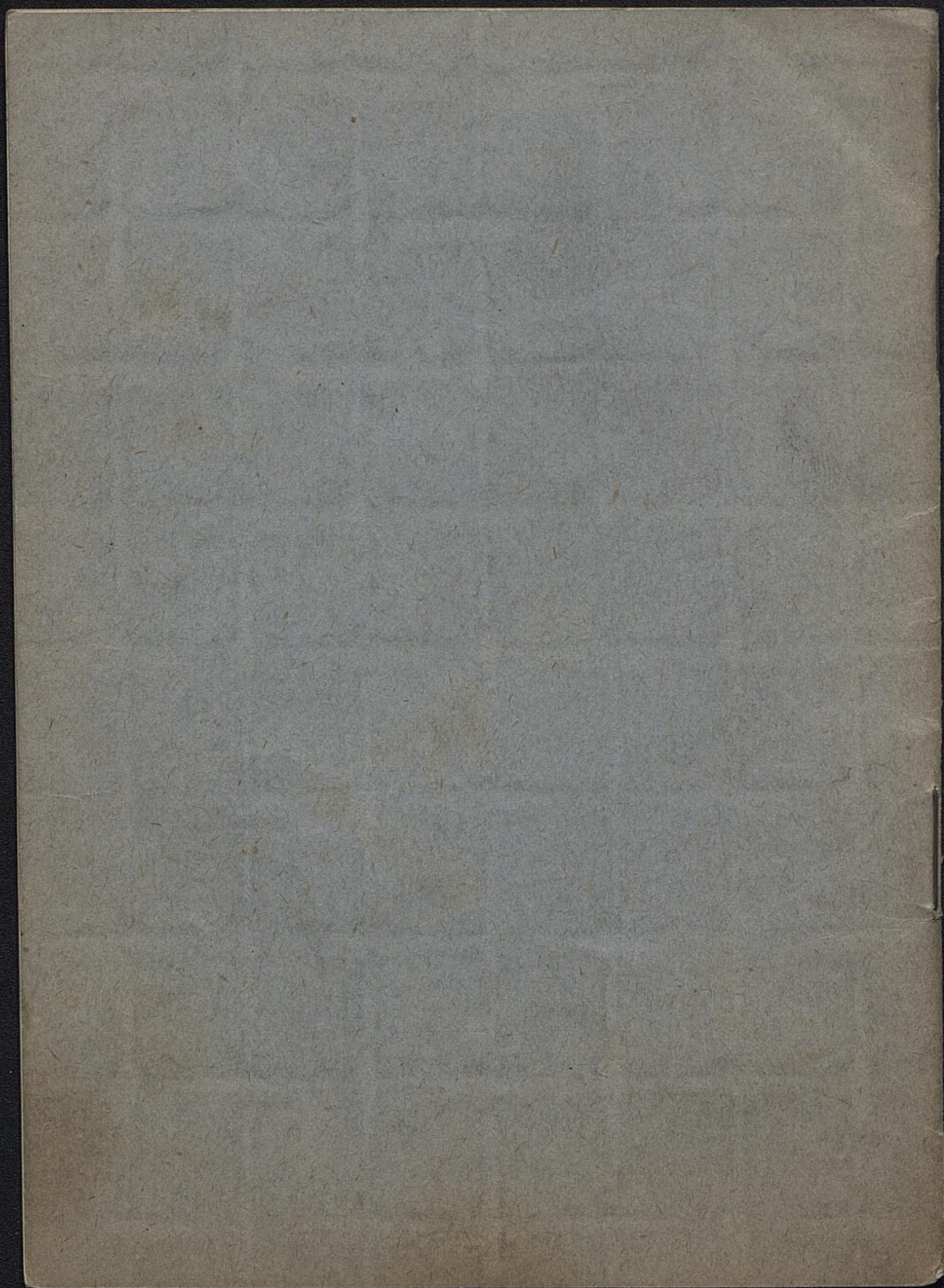
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WOOD-ALLEN PUBLISHING CO,

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