

**AMERICAN MARRIAGE
LAWS IN THEIR SOCIAL
ASPECTS: A DIGEST**

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American Marriage Laws in Their Social Aspects: A Digest by Fred S. Hall & Elisabeth W. Brooke

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FRED S. HALL & ELISABETH W. BROOKE

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A DIGEST

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smith*
By
FRED S. HALL AND ELISABETH W. BROOKE



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PREFACE

SOMEONE has remarked that the whole of social reform is implied in social case work—if it be thorough enough. This is an overstatement; social reform has many approaches, and we could ill afford to dispense with a single one of them. It does happen, however, that the plan of study to which the present Digest is merely preliminary grew out of social case work in one of the large family agencies of New York, and that this brief study illustrates, in a fashion, the relation between the social worker's attempt to find a way out for a few people in grievous trouble and human issues of wider significance.

I have served for several years on the committee of a society for family social work to which have been referred its especially puzzling problems of individual welfare. In about three-fifths of all the cases so referred, the committee found that the core of the difficulty centered around marital maladjustments. (Their proportion in the whole work of the society, it should be added, would not be nearly so large.) These troubles of the Smiths, the Browns, and the Robinsons brought more forcibly to our attention than ever before certain ancient evils and certain proposed remedies. As a part of the general public, we had already noted the alarming increase in the number of divorces, but we had never fully realized before the close relation between divorce and our ill-devised, variously-administered marriage laws. We began to wonder why so much attention had been given to the defects of our divorce laws and so little to those regulating marriage. Of course, law is only a small part of the problem as compared with public education and early training, yet it shapes our social ideals, in part at least, besides having much to do with the practical adjustments of daily living.

To those who champion one wholesale remedy for marital unhappiness, the plans growing out of this committee work—plans for a series of brief studies to be made by the Russell Sage Foundation—will seem futile. To those, on the other hand, who believe in beginning where we are and in securing each advance step as we

PREFACE

take it, statements that present the facts about the present laws, about their administration, and about the effect of both as observed in the lives of real people, will serve a useful purpose.

The first fruits of our endeavors will be found in a small book appearing simultaneously with this Digest—a study by Miss Colcord of Broken Homes and the social treatment of family desertion.¹

Mr. Hall and Miss Brooke have compiled the present summary of our marriage laws and of certain proposals made by others for their reform as preliminary merely to an inquiry into the way in which the laws on our statute books are actually administered. Their administration has even more to do with family welfare, of course, than have the laws themselves. This first part of the larger study is put out promptly, however, because it will be of immediate service to the many who are now at last becoming interested in marriage law reform.

Leagues of women voters are interested in bringing reason and essential justice into this much neglected field; so are the officers of domestic relations courts, the more socially minded members of the bar, the social agencies of the country, and the churches. All will be eager, therefore, to measure, with the aid of these pages, the width of the gap between the proposals for reform made by leading authorities and the actual laws of the various states as here summarized. And no one can note, in each state, the distance thus shown to exist between the possible and the actual, I believe, without becoming more interested in the subject.

Then, if readers will accept a further suggestion, their examination of the provisions in their own state could be followed by some inquiry into the way in which the statutes regulating marriage are enforced there. What, in detail, is the interpretation put upon the marriage laws in daily practice? How are licenses issued? How carefully is the intention of the law made clear to unsophisticated people? How are evasions punished? The authors of these pages would welcome any light upon these topics, which will constitute their next subject of study.

MARY E. RICHMOND.

New York, May, 1919.

¹ Colcord, Joanna C.: *Broken Homes, a Study of Family Desertion and Its Social Treatment*. New York, Russell Sage Foundation, 1919.

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PART I
SOME PROPOSALS FOR MARRIAGE LAW REFORM