

The criticisms offered of Divorce Courts are neither numerous nor sound. Senator Gowan in 1888 argued that Courts were bound strictly by precedent while Parliament was not. Parliament as a matter of fact recognises in a general way precedent, but the very fact that it is not bound to do so strictly is not an advantage but an absolute disadvantage—what the Committee has done one session is no positive assurance that if your case conforms it will be treated the same way the next session. Surely divorce is of equal importance with other matters of litigation. Or do the opponents of Divorce Courts wish to abolish from all Courts the recognition of the binding effect of precedents, and leave us to the whim of individuals?

The chief criticism of Courts has always lain hidden in the quite general feeling that divorce should be made or kept as difficult as possible—or since the question now under discussion does not involve the grounds for divorce but rather the accessibility of the jurisdiction once the grounds exist, it might be more accurate to say instead of as difficult as possible, accessible to as few as possible. It is said that it would militate against morality if the facilities for trying divorces were extended—that an increase in the number of divorces, even though the grounds are recognized as existing, would mean an increase in immorality. The findings after very careful consideration of the British Commission in 1912 (pp. 38 & 42) were quite to the contrary. Mr. Bishop in his authoritative work, *Marriage, Divorce and Separation*, says at pp. 21, 22, with reference to the period before 1857 in England: "...Indeed it is well known that in England, where divorces — — — have until lately been obtainable only on application to Parliament, in rare instances and at an enormous expense, rendering them a luxury quite beyond the reach of the mass of the people, second marriages without divorce, and adulteries, and the birth of illegitimate children, are of every-day occurrence; while polygamy is in these circumstances winked at, though a felony on the statute book. That wrongs whence come divorces are evils no one denies. If the refusal of divorce would prevent them all would pray for it. But the experience of every state and country withholding this redress is practically, however man may theorize, that no form of matrimonial delinquency is less prevalent there than elsewhere. And to the extent to which separations actually occur, the community is remitted back to the condition it would be in if marriage itself was abolished." The example of the