

*Procedure Respecting Divorce*

Afterwards I reviewed the evidence to the best of my ability and I wish now to place before the committee as well as I can the situation as it appears to me.

The petitioners in this case seemed to rest all their evidence, in the first place, upon the alleged fact that the respondent and the co-respondent had been living together as man and wife in a certain block in the city of Rochester. A witness was brought before the senate committee to prove that. The janitress testified that these people had been living there under the assumed name of Rugg. The name of the co-respondent is Kottmeir. The janitress, as I say swore that these people had been living there under this assumed name. She was brought here evidently at the earnest solicitation of a private detective named Wilcox. If you read the evidence you will see that it required a good deal of persuasion on the part of the private detective to get that woman to come; but finally she was persuaded to appear and give evidence. Later evidence was brought that entirely rebutted that testimony. It was shown that Rugg was not a fictitious name but the real name of a man who had been living with his wife in these apartments at the time in question. There was at least suspicion that perjury had been committed in the case. It was shown that the woman who was living in these apartments did not in any way resemble the respondent; the respondent is, I understand, a woman of medium size while the wife of Rugg was a large, tall woman. So that this at least gives countenance to the belief that there had been perjury in the matter. At any rate, the evidence was completely overthrown by the testimony of the former janitor, a man named Shaw, and of his wife, who proved that Rugg and his wife had occupied the apartment at the time the respondent and the co-respondent were alleged to have occupied it. The testimony on that point seemed absolutely conclusive, and the whole case rested in the first place upon that allegation. But when that was overthrown they sought to bring in evidence on another point. This private detective Wilcox accordingly swore that he had seen the respondent and the co-respondent going into another apartment or apartment block—for there seemed to be some confusion on that point—on three different occasions. On two of these occasions, he said, he watched them going into the apartment but he did not see them coming out, and on the third occasion he saw them going in at a certain time early in the afternoon and coming out about five o'clock. This is an entirely uncorroborated statement on the part of the

[Mr. Brown.]

private detective, who we have reason to believe was guilty of bringing forward false testimony in regard to the other apartments. His testimony is entirely unsupported. At the very best it would be only negative evidence; he says he saw them going in but did not see them coming out. On the third occasion however, as I say, he saw them coming out a few hours later but he did not follow them further than to the door of the apartment house. When the case was brought before the senate committee counsel for the respondent wished to bring forward further evidence; at least, he sought a delay in order that he might submit additional testimony. And to support his request for an adjournment he produced certain affidavits. He did not produce them by way of evidence, because the senate committee does not admit affidavits as evidence; he produced them to support his plea for a further adjournment. He was not granted the length of adjournment he wished; he was given a short adjournment which did not afford him an opportunity to bring the evidence he wanted. The affidavits produced are here and I believe they are in proper order. I am not accustomed to dealing with these matters, but so far as I can see they are in perfectly proper order. And the affidavits are to the effect that during the time covering the dates on which the respondent and the co-respondent are said to have been seen going into the apartment house, the man was sick in bed and therefore could not possibly be seen by the private detective as alleged. There is, it is true, another incident that took place in the Oliver apartments, but even in respect to that incident nothing more than an inference can be drawn, and both the respondent and the co-respondent give what seems to be a reasonable explanation of what happened there.

Remember, then, these facts: The statement upon which the whole case was based turned out to be false; it was absolutely disproven. Then there was the private detective, who, we have reason to believe, induced the janitress to come here and commit perjury. I saw her affidavit in which she withdrew the statements she had made. What weight, then, can be given to the testimony of that private detective?—because after all it is on his evidence we must depend. I have reviewed the case very hastily and only as a layman, but it seems to me that the charges against the woman have not been proven, and I think this committee should throw out the bill.