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MODEL LAWS FOR DIVORCE

Uniform Legislation in All States Object of New Movement.

FAVORS STRINGENT REFORM MEASURES

Asks Congress and Legislatures to Aid in Reducing Evil Caused by Law Rates in Many States.

Congress and the legislatures of the different states will be asked during the coming year to revise laws on the subject of divorce in a general campaign for uniformity in such legislation. The model for all of the proposed changes will be taken from a form compiled by the National Congress on Uniform Divorce Laws, which completed its labors on November 14 at Philadelphia. Pamphlets covering the work of this congress have just been issued. The publication comprises an address on the subject to the president and congress, the resolutions adopted at the congress and a copy of model acts for congress and the legislatures.

The principal one of these acts is the one relating to the regulation of divorces. Along the same line is another act providing for a return of statistics relating to divorce proceedings to be made to a designated state officer by the clerk of a district court and a third relating to a similar return of marriage statistics to be made by marriage license clerks. The purpose of these two acts is to provide material for the scientific study of divorce statistics.

The committee on resolutions was composed of attorneys and others who have taken a prominent part in the agitation of changes in the divorce laws of the different states. The chairman was Walter George Smith of Philadelphia and Ralph W. Breckenridge of Omaha was a member. The general purpose of the divorce congress is set forth in the address to the president and the national congress, which begins as follows:

"The great and constantly increasing number of divorces in the United States has aroused a general public interest which has resulted in a widespread movement for their restriction. As one result of the dis-

cussion of this subject, there is a well founded belief that a part of this increase in divorces, attended with special evils and scandals, is due to the lack of a divorce law uniform throughout the nation."

Remedy Lies in State Laws.

"The power to adopt such a uniform law, in the opinion of the congress, has not been committed to the federal government and must be obtained through the medium of the state legislatures. After quoting from President Roosevelt's message and discussing the preliminary matters taken up by the congress, the address continues: "The divorce congress did not deem it advisable to attempt to regulate the mere details of procedure in divorce actions, and with a few exceptions such details were not embraced either in the resolutions or the uniform divorce law. Two of these exceptions and the principal ones relate to the open public hearings and to publicity of records in divorce cases. Objection has been made to these provisions, on the ground of supposed injury to public morals, but after full consideration of the practice prevailing in the different states, the congress concluded almost unanimously that the advantages of a public and open hearing outweighed any of the dangers suggested, and that in the public interest such hearings were necessary in most of the states. In order to prevent a lax administration of the divorce laws.

The principal subjects covered by the resolutions and the uniform divorce act relate to the important matters of: (1) the causes of annulment and divorce; (2) the establishment of two kinds of divorces—limited as well as absolute, in those states where the former does not exist; (3) the adoption of a uniform rule governing the acquiring of jurisdiction in divorce actions; and, as intimately connected with this last subject, (4) the adoption of a uniform rule covering the subject of the faith and credit to be given to decrees of divorce obtained in other states."

Annulment of Marriages.
The causes for annulment of marriages as distinct from the causes for divorce recommended by the congress and now recognized by some of the states are as follows: Impotency not known at time of marriage; consanguinity and affinity within prohibited degrees; existing marriage; fraud, force or coercion and insanity not known to the injured party at the time of the marriage. In the last two causes the marriage, if confirmed, by the injured party after the discovery is not to be annulled. Another important cause added by the congress is the mar-

riage of a girl under 16 or a boy under 18, which may be annulled only at the instance of the injured party unless confirmed by such party after arriving at the ages named. The address then continues: "Limited divorces, or divorces from bed and board, were unanimously recommended by congress and are provided for by law, to be granted for the same causes as absolute divorces, at the option of the innocent and injured party, who is not to be compelled to ask for a dissolution of the marriage. This option will, in some states where the distinction does not exist, extend the relief of limited divorce to a large and increasing class, who on account of religious beliefs, conscientious scruples or other sufficient reason, would not seek absolute divorce, and are therefore, in the states where the distinction does not exist, barred in many cases from a proper relief by legal or judicial separation. The congress recommended that such limited divorces should be retained where already existing and should be provided for in states where no such rights exist. One additional cause for limited divorce on the part of the wife (but not adopted as a cause for absolute divorce) is the hopeless insanity of the husband, occurring after marriage. This relief was not extended to the husband for the insanity of the wife, as it was recognized that such insanity might sometimes result from the physical effect upon the wife of the marriage relation itself, in which respect the spouses are not by nature of an equality."

Causes for Absolute Divorce.

The causes for absolute divorce are thus summed up in the body of the bill: (a) Adultery. (b) Bigamy, at the suit of the innocent and injured party to the first marriage. (c) Conviction and sentence for crime by a competent court having jurisdiction, followed by a continuous imprisonment for at least two years, or in the case of indeterminate sentence, for at least one year, provided that such conviction has been the result of trial in some one of the states of the United States or in a federal court or in some one of the territories, possessions of courts subject to the jurisdiction of the United States, or in some foreign country granting a trial by jury, followed by an equally long term of imprisonment. (d) Extreme cruelty, on the part of either husband or wife, such as to endanger the life or health of the other party or to render cohabitation unsafe. (e) Wife's desertion for two years. (f) Habitual drunkenness for two years. Divorce from bed and board may be granted for the same reasons and complete divorce and for the additional one of hopeless insanity of the husband. The law makes stringent provisions regarding service on the defendant and to prevent divorce by collusion. It provides a simple default is not sufficient to make a case for the plaintiff, but affirmative proof must be had aside even from admission of the defendant. It also provides no divorce shall be granted if such collusion appears or if it appears that the plaintiff has procured or connived at the offense charged or has condoned it or been guilty of adultery not condoned.

Service Rule is Stringent.

The proposed regulations regarding service on the defendants are stringent and are intended to insure ample notice to the defendant party where it is possible for such notice to be given. The sections relating to service are as follows: "Section 5. For purposes of divorce, either absolute or from bed and board, jurisdiction may be acquired by personal service upon the defendant within this state under the following conditions: (a) When, at the time the cause of action arose, either party was a bona fide resident of this state, and has continued

so to be down to the time of the commencement of the action; except that no action for absolute divorce shall be commenced for any cause other than adultery or bigamy, unless one of the parties has been for the two years next preceding the commencement of the action a bona fide resident of this state.

"(b) When, since the cause of action arose, either party has become, and for at least two years next preceding the commencement of the action has continued to be, a bona fide resident of this state: Provided, The cause of action alleged was recognized in the jurisdiction in which such party resided at the time the cause of action arose, as a ground for the same relief asked for in the action in this state.

"Section 6. When the defendant cannot be served personally within this state, and when at the time of the commencement of the action the plaintiff is a bona fide resident of this state, jurisdiction for the purpose of annulment of marriage may be acquired by publication, to be followed, where practicable, by service upon or notice to the defendant without this state, or by additional substituted service upon the defendant within this state, as prescribed by law.

Service by Publication.

"Section 10. When the defendant cannot be served personally within this state, and when at the time of the commencement of the action the plaintiff is a bona fide resident of this state, jurisdiction for the purpose of divorce whether absolute or from bed and board, may be acquired by publication, to be followed where practicable by service upon or notice to the defendant without this state, or by additional substituted service upon the defendant within this state, as prescribed by law, under the following conditions:

"(a) When, at the time of the cause of action arose, the plaintiff was a bona fide resident of this state, and has continued so to be down to the time of the commencement of the action; except that no action for absolute divorce shall be commenced for any cause other than adultery or bigamy, unless the plaintiff has been for the two years next preceding the commencement of the action a bona fide resident of this state.

ST. NICK MAKES WAIF HAPPY

Santa Claus Goes to City Mission and Picks Out the Poorest Child.

Santa Claus visited the City mission in broad daylight Saturday. It was about 11 o'clock in the morning that a stranger dropped in unexpectedly and inquired for Miss Magee, the superintendent. In a few words she explained he desired to gadden the Christmas of one of the children of the mission and he desired Miss Magee to select the most unfortunate of all the youngsters there. Miss Magee sought to find out where he came from, but Santa Claus had no answers for such questions. He insisted he was there for one purpose only, and could not wait to be quizzed. Miss Magee's choice fell on an ill-clad 8-year-old German lad, a child of very poor parents. In the afternoon Santa Claus called at the mission again, took the youngster up town gave him a bath, provided him with a complete outfit, a neat knickerbocker suit, hat, gloves, shoes and all, and led him back to the mission. It was the happiest day in the child's life and Santa said he felt happy, too. He left St. Nick Magee for the work of the City mission, and left, still refusing to answer questions as to where he came from.

In Line with the Pure Food Law.

The National Food and Drug act which takes effect January 1, 1907, does not affect Chamberlain's Cough Remedy in any manner. No special labels are required on this remedy under that act, as it is free from opiates and narcotics of every character, making it a safe remedy for mothers to use with their children. This remedy has been in use for so many years, and its good qualities are so well known, that no one need hesitate to use it when troubled with a cough or cold.



FUNKHOUSER BILL IS READY

Gas Commissioner Ordinance Will Be Presented Tuesday Night.

REPRESENTS WORK OF MANY MONTHS

Zimmerman Aids Funkhouser in Compiling Measure from What They Consider Best of Other Bills.

Councilman Funkhouser, chairman of the city council lighting committee, has his gas commissioner ordinance ready for introduction at the next council meeting. The ordinance as it now stands represents the work of several months of investigation and is quite a comprehensive document, covering six pages of typewritten matter. Councilman Zimmerman has assisted in the work of getting together what is believed the best features in vogue in other cities.

The ordinance specifies what kind of a test gas used in Omaha must pass to be declared merchantable. The powers and duties of the gas commissioner are outlined in detail and various features to protect consumers of gas are incorporated in the ordinance.

One of the provisions of the ordinance is that for illuminating purposes gas shall test not less than twenty-three candle power, that is, of such quality that the Bureau shall give a light of not less than twenty-three standard sperm candles. The heating value of the gas shall not be less than 600 British thermal units per cubic foot. For an all-coal gas the minimum shall be eighteen candle power. The quality of the gas is to be determined by a monthly average of weekly tests made by the commissioner. Mains must be adjusted so that il-

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luminating power of the gas must, within a radius of one and one-half miles, be at least 92 per cent of the illuminating power of such gas when it leaves the holders.

Weekly Tests Required.

The gas commissioner will be required to make weekly tests at gas holders and at some place or places not more than a mile and a half from location of gas works. He shall ascertain the quality and illuminating power and make an average at the end of each month, reporting his findings to the gas company. For the purpose of such tests a room will be fitted up with apparatus. The present idea is to have a room in the city hall set aside. In his tests the commissioner shall determine whether the gas contains more than fifteen grains of sulphur in 100 cubic feet of gas, which must be free from an impurity known as sulphurated hydrogen. The gas commissioner shall be required to make tests of gas supplied to consumers; shall, from time to time, test the pressure at different points in the mains and also make monthly tests of the street gas lighting to determine whether the contract with the city is being observed. The commissioner is given all reasonable access to the works and mains of any gas company operating in Omaha.

Must Pay Graduated Forfeit.

It is provided in the ordinance that the gas company shall pay the city consumer a graduated forfeit in cases where the gas has been tested below standard requirements. For instance, in the case of other than all coal-gas falling to test to twenty-three candle power the company shall be required to pay one-twentieth of the bill for each candle power the gas tested below standard. Any person continuing in the manufacture or sale of gas below standard requirements, after having been notified by the commissioner, shall be subjected to a fine of \$50 or imprisonment of ninety days.

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