DIVORCE IN MARYLAND

RESEARCH REPORT No. 25

RESEARCH DIVISION
MARYLAND LEGISLATIVE COUNCIL

DIVORCE IN MARYLAND

Research Report No. 25

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By

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Research Division
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PREFACE

Numerous bills have been introduced in the General Assembly of Maryland from time to time to amend the Divorce Laws of the State and some of these have been enacted but there has been no general revision of the Divorce Laws of Maryland. At the last session of the Legislature, a bill was passed reducing the period required for divorce on the ground of voluntary separation from five to three years. The Governor vetoed this bill on the ground that there had been no study of the subject and suggested that there should be a thorough study of the divorce question. As a result of this suggestion, the Legislative Council instructed the Research Division to make this study.

This report contains an outline of the grounds for divorce in Maryland as well as a comparative analysis of the grounds for divorces granted in Maryland for certain years and the several proposed changes in the Divorce Laws.

The preliminary draft of the report was submitted to Judge Ogle Marbury, Chief Judge, Court of Appeals; Judge Joseph Sherbow, Supreme Bench of Baltimore City; former Judge Eli Frank; Professor John S. Strahorn, Jr., University of Maryland Law School; Messrs. Gerald W. Hill and Mason P. Morfit, Examiners and Ward B. Coe, Master in Chancery, Baltimore; and Mr. Gerald Monsman, Counsel, Legal Aid Bureau for criticism and many helpful suggestions were received. Our appreciation is hereby extended to them. Thanks are also due to the Bureau of Vital Statistics of the State Department of Health, the Commissioners of Uniform State Laws, Judges, Clerks of Court and Bar Associations of the State for assistance rendered and suggestions made in connection with this study.

HORACE E. FLACK
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The problems and implications of a growing rate of divorce have been felt in Maryland as in all other American jurisdictions, culminating most recently in a suggestion by Governor Herbert R. O'Conor that the entire subject be studied.

The immediate cause of the Governor's request was Senate Bill 294 of the 1945 session of the Legislature, which would have reduced from five to three years the period of voluntary separation required as a ground for absolute divorce. The bill was passed by the General Assembly, though against considerable opposition and after having been killed and then revived in both houses. It was vetoed by the Governor, and in his veto message (1945 session laws, p. 1980) he suggested the need for a study of the whole question. The Council's study has ranged widely over the substantive grounds for divorce and also into the procedural and evidential requirements for obtaining one.

A. Introduction

Divorce as we now speak of it is a relatively modern institution, though it may be traced back at least eight or nine centuries in English law. Until almost the time of the American Revolution, however, English divorce cases were exclusively within the province of the ecclesiastical courts, which had long existed as co-equals of the civil courts and had jurisdiction not only in affairs of the clergy but also in such affairs of the laity as concerned "the health of the soul." Most of the divorces granted by the ecclesiastical courts were what we know as limited, or *a mensa et thoro*, from bed and board. These carried no right of re-marriage. The few divorces granted which we would term absolute (or *a vinculo matri-*

monii, from the bonds of matrimony) were for causes existing at the time of marriage, as impotence, or a pre existing marriage, in our terminology they were rather annulments than divorces.[1]

Such was the situation in England when Maryland was colonized and settled, beginning in the 1630's. For the next century and a half the divorce law of the colony was uncertain. There was no ecclesiastical court here, so that that possibility for divorce was closed. A bill which was pending in the Assembly in March, 1638, would have given to the county courts thereby erected (though St. Mary's was at the time the only county), jurisdiction in "all Causes matrimonial," but the bill was not passed.[2]

By the late years of the 17th Century the English Parliament was beginning to grant a very few divorces by special legislative act. It was perhaps with knowledge of this development that the Maryland House of Delegates, in 1701, agreed to hear evidence on a petition from a husband "that an Act might be passed for the divorcement of him the said Edward ... and Elizabeth his wife and declaring the Children of her the said Elizabeth Begotten during her Elopement to be illegitimate..." However, the husband seems never to have appeared to press his petition.[3]

The most certain development of this colonial period in Maryland was the power of the courts to decree the payment of alimony, without divorce. In every case, of course, it was the wife who sought the payment, after the separation of the parties, and by the 18th Century it was well established

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[1]Much of the historical material in this section of the report has been adapted from Divorce Law in Maryland, by Geoffrey May, Bulletin No. 4 of the series "Study of the Judicial System of Maryland" by the Judicial Council of Maryland and the Institute of Law of the Johns Hopkins University (Jan., 1932).

[2]Proceedings and Acts of the General Assembly of Maryland, January 1637/8 - September 1664, in Archives of Maryland, vol. 1, pp. 38, 39, 47.

[3]Ibid., vol. 24, pp. 151, 197, 237.

in Maryland that petitions for alimony, without divorce, could be heard by the judiciary, acting through the chancellor in equity.

Until the late 18th Century, therefore, no divorce had ever been granted in Maryland. Then, beginning in 1790, the Legislature began to grant them by special act, and during more than half a century it greatly expanded the possibilities for divorce.

The first divorce granted by the Legislature (ch. 25 of 1790) was sought by a husband on the ground that his wife had already been convicted of adultery and of bearing a mulatto child. Several other decrees were soon thereafter granted for the same combination of causes. At first the Legislature insisted that a criminal conviction must have preceded the petition for divorce; this requirement was soon relaxed, but for a time the charge was required to be a serious one, as adultery or bigamy

In 1807 two divorces were granted for incompatibility, demonstrated by intoxication, cruelty, and failure to support (chs. 39 and 76 of 1806).

The typical special act simply stated the fact of the divorce, with no mention of the grounds. It is difficult to establish any legislative policy, therefore, though enough petitions were rejected to suggest that some serious inquiry likely was made in each instance.

Perhaps the most famous of all the legislative divorces was that of Elizabeth Patterson from Jerome Bonaparte, the brother of Napoleon. Prior to the Maryland decree Jerome had deserted her, had had the marriage annulled in France, and had married a German princess. Here again, however, the Maryland act gave no reason for the divorce (ch. 130 of 1812).

By 1850 over five hundred legislative divorces had been granted. Until 1816 all of them were absolute, or a vinculo. From 1817 to 1826 all were limited, or a mensa, and thereafter they were of both types.

There were a number of unsatisfactory aspects to the whole system of legislative divorce. In the first place, there was no definite policy followed; most of the acts gave no hint as to the grounds, and few people knew what went on in the committees or on the floor of the two houses. Frequently the House and Senate disagreed upon what action to take, so that even if their differences were later composed the general feeling of uncertainty remained. There was criticism on procedural grounds, too, for the Legislature was less concerned than the courts with such judicial niceties as notice and hearing; and with noticeable frequency it passed decrees which shortly before it had refused, no new grounds for divorce having occurred, with no regard for the judicial principle of res adjudicata.

The decrees were often unsatisfactory to the parties. They usually granted only the divorce, with nothing said about such incidental relief as change of the wife's name, alimony, custody of children, and property rights. One attempt by the Legislature to insert a provision for alimony in a decree for divorce led to an interesting situation. As has been said above, the most definite development of the colonial period had been to establish the right of equity courts to grant alimony without a divorce; and when the General Assembly attempted to incorporate alimony into a legislative decree of divorce, the Court of Appeals called it unconstitutional. The point was raised in the Meginnis case (1 G. & J. 463), with the Court ruling that since alimony could be and long had been obtained from the courts it was a judicial function, and that its attempted exercise by the Legislature was in violation of the constitutional requirement for the separation of powers. A complainant seeking both alimony and divorce, therefore, had to go both to the courts and to the Legislature.

In answer to these and other complaints against the policy of legisla-

tive divorce, attempts to change it were introduced into perhaps a dozen or more sessions of the General Assembly, beginning in 1809. Finally, in 1842, it was enacted that "the chancellor or any county court of this State as a court of equity, shall have jurisdiction of all applications for divorces and any person desiring a divorce shall file his or her petition or bill to the chancellor or in the county court as a court of equity . . ." (ch. 262 of 1841). Since the Legislature was not specifically prohibited from granting divorces, however, it continued to do so; and for a few years both legislative and judicial decrees were granted. Finally, in the new constitution of 1851 (Art. 3, sec. 21), it was provided that "no divorce shall be granted by the General Assembly." From that time divorce has been an exclusively judicial function.

B. Uncontested Cases.

Whatever may be the grounds for which divorces and annulments are granted, a factor to be kept constantly in mind is that most of them are not contested cases. As a group they differ materially from the traditional conception of a court case which involves an actual contest and argument between two parties, with the court acting as a sort of referee. So far as divorce litigation is concerned, this traditional view is largely a misconception.

An exhaustive study of the 3306 divorce, alimony and annulment cases instituted throughout the State of Maryland in 1929 showed that a surprisingly small percentage of them were contested.[1] In the first place, of the 3306 cases, 1847 or 56% were not even answered by the defendant, and if they came to an actual hearing, were entirely unanswered and uncontested.

[1] Leon C. Marshall and Geoffrey May, The Divorce Court — Maryland (1932). This study was made under the Judicial Council of Maryland and the Institute of Law of the Johns Hopkins University, as part of a series of studies on state courts.

The other 1459 cases, being 44% of the total, were answered by the defendant and to this extent technically were contested. However, in only 81 cases, 2.5% of the total, was there a definite contest at the hearing, with a further group of 3.9% of all the cases for which there were no data available as to whether or not there had been a contest at the hearing.

Very likely, therefore, there was a bona fide contest between the parties according to the popular conception of court cases in not more than one out of twenty divorce and annulment actions. Even here, many of the contests were not on the question of granting the decree of divorce, but on disputes over such incidental and collateral matters as alimony, custody of the children, and property settlements.

The authors of the study of 1929 cases concluded that "in large part our divorce courts are places for the formal registration of decisions already reached, voluntarily or involuntarily, by both parties. The fact that this formal registration is attended by elaborate ceremonies, court costs, attorneys' fees and a largely fictitious judicial controversy does not change the essence of the matter."

This concept of "registration" perhaps minimizes unjustifiably the State's interest in the marriage status and in divorce. In any event, the small percentage of cases reaching an actual contest must constantly color one's reaction to the whole problem of divorce.

C. Grounds for Marital Actions in Maryland.

There are four types of legal action for attacking the marriage relationship, namely, annulment, alimony, limited or a mensa divorce, and absolute or a vinculo divorce. The first and fourth actions end the marriage completely, while the second and third actions cut it off only partly.

In each instance the possible grounds of complaint are sufficiently limited and restricted as to put Maryland among the conservative states in its general attitude toward divorce.

1. Annulment. The State Code provides two grounds for declaring a marriage void. First, if the parties are related within the prohibited degrees of consanguinity, the court may so declare, and the marriage thereby is void. Secondly, if there is a bigamous marriage, the second being performed while the first subsists, the second may be declared null and void (Art. 62, secs. 1, 2, 16). This power of annulment was conferred on the courts by an act of 1777 (ch. 12), so that annulment has been a judicial function for considerably longer than has divorce.

Although the statute does not specify, marriages which are declared null and void by reason of being bigamous are held to be void ab initio, from the very beginning and as if they had never existed. On the other hand, the Court of Appeals has held that a marriage between uncle and niece is not ipso facto void, but only voidable, and that its nullity dates only from the time the court has so declared it (22 Md. 468).

In addition to these statutory grounds for annulment, there are other powers of annulment wielded by virtue of the general jurisdiction of equity courts. Thus, the marriage of a person under age is sometimes annulled. A marriage procured by abduction, terror or duress may be declared a nullity. Similarly, fraud which goes directly to the marriage as a contract may be ground for annulment, as if the husband has grossly misrepresented his character and station in life. Among recent unusual cases coming under the general heading of fraud were two in Allegany County in which white women were married to men with Negro blood, one in Baltimore City in which the wife at

the time of marriage concealed a pregnancy by another man, and one in Anne Arundel County in which the wife refused to bear children.

Generally, the Maryland courts proceed with caution in annulment actions, requiring clear and satisfactory proof on recognized grounds.

2. Alimony. Alimony may be awarded in any action for divorce, but it also is an action in its own right and may be sought separately (Art. 16, secs. 14-17). However, alimony may not be awarded except on grounds which also would justify the granting of some form of divorce, so that the two are closely associated. Indeed, alimony in its effect is not much different from a limited or a mensa divorce; in both actions the parties are legally separated but yet have no right of marriage.

3. Divorce a mensa et thoro. The grounds for an a mensa or limited divorce in Maryland are cruelty of treatment, excessively vicious conduct, and abandonment and desertion. Such a divorce formally separates the parties, though not to the extent of giving a right of re marriage and often adjudicates property rights, alimony, and the custody of minor children.

Divorce a mensa has not been a serious social problem. For one thing, by the very nature of the action and of what the complainant usually seeks in the decree, there is little or no reason for attempting to secure the decree without adequate notice to the defendant, as is discussed in Section F of the report. For another, the limited effect of a decree a mensa has meant that an innocent wife might secure one and at the same time retain an interest in the husband's property, reducing the possibilities for her being thrown as a burden upon society. Only a small minority of those persons seeking divorce ask for an a mensa decree, and the statutory grounds for it have

been unchanged since the act of 1842 which originally empowered the courts to hear divorce cases.

Approximately half of the states have made no provision for limited or a mensa divorce. In those states which do have it, the tendency has been to make the same grounds apply both to absolute and to limited divorce, with the plaintiff being allowed to ask for either type of remedy. Maryland has a separate set of grounds for each action. For the most part, this State seems to have divided its grounds for divorce into "more" and "less" serious, making the one set apply to absolute divorces and the other to limited divorces. Some persons have suggested, however, that Maryland courts require such a high standard of proof in a mensa cases, notably if cruelty is alleged, that in practice a limited divorce is harder to obtain than would be an absolute divorce.

A mensa divorce satisfys the purposes of those who stress the indissoluble nature of marriage but who find some sort of legal separation necessary for practical reasons. Others criticise the whole idea of it because it leaves the parties suspended in an indefinite and uncertain status, neither married nor divorced nor single.

4. Divorce a vinculo matrimonii. A high percentage of the divorce cases in the courts involve a decree a vinculo. Maryland now has six grounds for such a decree, and proposals to change the divorce laws almost invariably concern this branch of the subject. Similarly, the possible need for strengthening some of the procedural law of divorce seem always to involve persons who are asking for an a vinculo decree.

The six grounds for a vinculo divorce are as follows (Art. 16, secs. 40, 41A):

1. Impotence of either party at the time of marriage. Provided by Ch. 262 of 1841 and has not been changed.

2. Any cause which by the laws of this State renders a marriage null and void ab initio. This provision also has been unchanged since the original act. The application of this part of the divorce law is somewhat uncertain, as is discussed in Section I 6 of this report, but it ordinarily is thought to permit divorces for bigamous and incestuous marriages, which also may be annulled.

3. Adultery. Provided by Ch. 262 of 1841 and has not been changed.

4. Uninterrupted, deliberate, and final abandonment for at least 18 months, with no reasonable expectation of reconciliation. Originally, by ch. 262 of 1841, this ground for divorce was abandonment and remaining absent from the State for a period of five years. By ch. 306 of 1844 the requirement became simply desertion for 3 years, and the change from 3 years to 18 months as the necessary period for desertion was made by ch. 90 of 1941.

5. Voluntarily living separate and part, without any cohabitation, for five consecutive years, without any reasonable expectation of reconciliation. This is a recent addition to the law of divorce, having been added by ch. 396 of 1937. Senate Bill 294 of 1945 would have lowered the period of voluntary separation from five to three years; it passed the Legislature but was vetoed by the Governor.

6. Permanent and incurable insanity, if the person has been confined to an institution for at least three years. This also is a recently added ground for divorce, having been enacted by ch. 497 of 1941.

[One further ground for divorce, the pre-marital unchastity of the wife, was authorized by ch. 340 of 1846 and repealed by ch. 558 of 1939.]

D. Grounds for Divorce in Other States

The laws of the forty-eight states show a wide variety in their attitudes and public policies toward divorce. On the one extreme is South Carolina, which in its constitution (Art. 17, sec. 3) has provided simply and definitely that "divorces from the bonds of matrimony shall not be allowed in this State." Furthermore, as a penalty against those who seek relief elsewhere, and against those who simply disregard their obligations, South Carolina has by statute provided that a wife who obtains a divorce in another

state, or who elopes with another man, or who simply deserts her husband without cause, shall thereby forfeit her dower rights in her husband's lands in South Carolina (1942 Code, secs. 8583, 8584, 8591).

On the other extreme are the so-called "easy divorce" states. They generally have such an indefinite and easily applied ground for divorce as "cruelty" or "wilful neglect," but the most distinctive feature of this group of states is in their residence requirements. By permitting outsiders to establish a legal residence sufficient for obtaining a divorce, within from six weeks to three months, such states as Nevada, Idaho, Arkansas, Wyoming, and Florida have frankly appealed to outsiders to come into the state in order to get a divorce.

Among all the forty eight states, the most prevalent grounds for divorce are as follows (arranged in descending order):

1. Adultery. Forty-seven states, all except South Carolina, will grant an absolute divorce for adultery. Usually a single act will suffice, though Kentucky and Texas require a "living in adultery" by the husband to constitute grounds for the wife's divorcing him.

2 Desertion. Forty six states (New York and South Carolina being the exceptions) grant divorces for desertion. Twenty two of them require the desertion to have continued for one year, 12, for two years, and 8, for three years. In Maryland it is $1\frac{1}{2}$ years, and in Louisiana it is 5 years. New Mexico is the only state which has no requirement as to the duration of the desertion, though Rhode Island provides that it shall be for five years and then permits the court in its discretion to grant decrees for lesser periods of desertion. The several statutes use various descriptive and qualifying terms, of course, which make for differences in their application.

3. Cruelty. Forty two of the states (all but Maryland, New York, North Carolina, South Carolina, Tennessee, and Virginia) recognize cruelty as a ground for a vinculo divorce. Again it is a ground which is variously described, though generally the statutes would cover either mental suffering or bodily violence. A number of the same states use the phrase "indignities against the person," either as a characterization of cruelty or as a separate ground for divorce. It may be noted, too, that of the six states which do not give a vinculo divorces for cruelty, all but South Carolina use it for a mensa decrees.

4. Imprisonment. Forty states (Florida, Maine, Maryland, New Jersey, New York, North Carolina, Rhode Island, and South Carolina are the exceptions) will grant divorces based generally upon some form of imprisonment for crime. Conviction for a felony is the most usual ground, with the phrase "or other infamous crime" often being added. Frequently, instead of mentioning the conviction, the statutes will authorize the divorce for imprisonment in the penitentiary, or imprisonment for a stated period of years. These statutes either expressly or impliedly limit the imprisonment or conviction to those occurring after the marriage, the theory being that there is an involuntary separation of the parties for a considerable period and that the innocent spouse should have a remedy. Four of these states (Arizona, Missouri, Virginia, Wyoming) will give a decree for a conviction for felony occurring before the marriage, if it was unknown to the complainant at the time of marriage. Louisiana and Virginia also give as a ground for a vinculo divorce fleeing to avoid arrest for an infamous crime.

5. Drunkenness. Thirty nine states (all but Maryland, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Texas, Vermont, and Virginia) will decree an absolute divorce on the ground of habitual drunkenness

and intemperance. Often the drunkenness or intemperance must have been continued over a stated period of time, as one or two years.

6. Impotence. Thirty three states, including Maryland, make impotence a ground for divorce, and probably most or all the others have made it a cause of annulment.

7. Neglect and non support. Twenty two states allow a vinculo divorce for wilful neglect or non support. Generally it is a ground to be used against the husband, though some statutes use the phrase "gross neglect of duty" by either husband or wife. More often than not there is no time set during which the neglect or non support must have continued, though some states require a period of one or two years.

8. Insanity. Twenty two states, including Maryland, now recognize insanity as a cause for divorce. The statutes are widely different, though running through most of them is the conception of permanent and incurable insanity and often of confinement in an institution. Insanity is among the newer grounds for divorce, having been added by practically all of these states within the past fifty years. It is based upon the idea that incurable mental illness differs from physical illness, in that it changes the entire personality. Insanity as a ground for divorce must have occurred after the marriage, of course, if it existed at the time of the ceremony it would go to the initial validity of the marriage, as affecting the insane party's capacity to contract.

9. Pregnancy at time of marriage. Fourteen states make the wife's pregnancy at the time of marriage, by another man, grounds for divorce. Maryland has no such statute, and no ruling upon the point by the Court of Appeals, but in at least one instance a trial court has held the concealment of such a

condition to be a fraud, and therefore annulled the marriage as fraudulently obtained.[1]

10. Bigamy. Thirteen states make bigamy a cause for divorce, though they differ as to which party receives the remedy. In three of them, it is the innocent party to the first marriage who can get the divorce as against the guilty spouse. This is a duplicating ground for divorce as in such circumstances the ground of adultery always would be adequate. In the other ten states, it is the innocent party to the second marriage who has the remedy. Maryland gives to this innocent party to the second marriage the relief either of annulment or of divorce

11. Voluntary separation. Twelve states, including Maryland, make the voluntary separation of the parties a ground for a vinculo divorce, after a suitable period. Two states require ten years of such separation, but the others require from two to five years only. Here again is one of the "newer" causes for divorce. It is one of the very few which does not impute some fault to the defendant, and stems from the idea that if the parties have separated amicably and continued apart for a period of years, it then is to the best interests of society to permit a full separation and divorce.

12. Fraud and duress. Eight states provide that if a marriage has been procured by fraud, force, or duress, it shall be cause for divorce. In Maryland, as has been seen, these factors support a non-statutory annulment, as invalidating the contractual aspect of the marriage.

13. Incest. Five states permit divorce where the marriage is between

[1] Circuit Court No. 2, Baltimore City, #B 53499, decreed February 23, 1944.

relations of a degree of consanguinity prohibited by law. Maryland seems to reach this result indirectly; this State provides for the annulment of such a marriage and then extends the divorce laws to any marriage "null and void ab initio," so that in Maryland either an annulment or a divorce action probably may be brought under such circumstances.

14. Miscellaneous. Three states or fewer have provided a variety of other grounds for a vinculo divorce. These include attempt on the life of the other spouse, violent temper or vicious conduct, seven years' unexplained absence, crime against nature, communicating a venereal disease to the spouse, concealing a loathsome disease until the time of marriage, prostitution or lewdness before marriage, incompatibility, and separation under a limited divorce for five years.[1]

E. Statistics of Divorce in Maryland.

Divorce as a social institution has changed so radically within the past few decades, within the memory of the present generation, that it is in a sense a "modern" problem, even though legally it is hundreds of years old.

1. Number. The basic fact to be noted is the well recognized trend toward more and easier divorces. In Maryland, for selected years since 1914, the number of divorces granted has increased as follows:[2]

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[1]A complete synopsis of American divorce laws as of 1931 is in Vernier's American Family Laws (5 vols., 1932). A very recent synopsis, together with extended discussions of the case law on all phases of the subject, is in Nelson on Divorce and Annulment (2nd ed., 3 vol., 1945). Two good recent summaries of divorce law are in Laws on Domestic Relations, compiled by the American Bar Association in 1944, and Legal Grounds for Divorce, Publication No. 60 of the Research Department of the Illinois Legislative Council (May, 1944).

[2]The figures for divorces, and those for marriage which follow in the next tabulation, were supplied to the Legislative Council by the Bureau of Vital Statistics of the State Department of Health.

Year	Number of Divorces	Index Number, Based upon 1914 as 100
1914	768	100
1919	1,891	246
1924	1,692	220
1929	2,117	276
1934	2,112	275
1939	2,644	344
1940	3,227	420
1941	4,146	540
1942	5,241	682
1943	5,595	729
1944	6,069	790
1945	6,711	874

Taken by themselves, these figures do not tell the whole story, for there has been an increase in population and also an increase in the number of marriages performed. Both these factors tend partially to offset the great increase in the number of divorces, though the use of Maryland as a "Gretna Green" makes comparisons involving the marriage figures somewhat unreliable. With this qualification, the number of marriages for the same years has been as follows:

Year	Number of Marriages	Index Number, Based upon 1914 as 100
1914	16,202	100
1919	25,460	157
1924	25,342	156
1929	25,124	155
1934	28,735	177
1939	25,096	155
1940	39,305	243
1941	59,077	365
1942	59,002	364
1943	43,888	271
1944	42,271	261
1945	47,529	294

The population of Maryland also has increased appreciably since 1914. The figure for that year is not known, but according to the Federal Census it was 1,295,346 in 1910, 1,449,661 in 1920, 1,631,526 in 1930 and 1,821,244 in 1940; and an estimate based upon the number of ration books issued put

the figure at 1,982,947 as of November 1, 1943.

Combining all these figures, together with others published by the Bureau of the Census for earlier years, this tabulation results:

Year	Marriages per 1,000 population	Divorces per 1,000 population
1890	-	.25 app.
1900	-	.44 app.
1910	-	.58 app.
1920	19.0	1.5
1930	15.1	1.3
1940	21.6	1.8
1943	22.1	2.8

How much of the recent increase in divorces is due to wartime conditions is conjectural. In any event, the precise figures are not important. The basic fact, to repeat, is that for decades the rate of divorce in the State has moved steadily and sharply upward.

Two other general facts may be noted about the Maryland figures over this period of years. First, they have been consistently below those for the entire United States, indicating the conservative position of the State. Secondly, the divorce rate in Baltimore City has been markedly higher than in the counties, suggesting a direct relationship between urban life and divorce.[1]

2. Grounds. The divorces and annulments granted in Maryland in 1945 were decreed for the following grounds:

A vinculo or absolute divorces, total 6430

Desertion for 18 months 4733
Adultery 1331
Voluntary separation for 5 years 319

[1]Charts illustrating these factors may be found in The Divorce Court - Maryland, by Marshall and May.

Incurable insanity	27
Impotence	6
Null and void ab initio (Bigamy)	8
A mensa or limited divorces, total	191
Cruelty	58
Vicious conduct	3
Desertion for any period	130
Annulments, total	90
Marriage between close relations	
Bigamous	40
Non statutory	50
Divorces and Annulments, 1945 total	6711

Several factors are immediately apparent. First, an overwhelming majority of the actions(6430 out of 6711)are for absolute divorce, and only a very few (191) are for limited divorce. The "popularity" of a vinculo decrees is evident.

Secondly, a high percentage of the a vinculo decrees are put on the basis of desertion for 18 months. Thirdly, there were few a mensa decrees for vicious conduct, though this may be only a result of incomplete reporting, as vicious conduct and cruelty often are synonomous. Finally, over half of the annulments were for equitable, non statutory reasons.

3. Comparison of grounds alleged, 1929 and 1945. An analysis of the grounds for which absolute divorces were granted in 1929 and 1945 shows an interesting contrast.

Of the 2718 suits for absolute divorce filed in 1929, a total of 1943 decrees had been granted by May, 1931. Of this latter number, the grounds for which the divorces were granted fell into the following groups, by percentages:

62.7% -- desertion for 3 years
36.7% -- adultery
.3% -- pre-marital unchastity of the wife
.3% -- other (impotence and null and void ab initio)

In 1945 there were 6430 absolute divorces granted, for the following grounds, by percentages:

73.6% — desertion for 18 months
20.8% — adultery
5.0% — voluntary separation for 5 years
.4% — insanity
.1% — impotence
.1% — null and void ab initio, for bigamy

During the fifteen year interval there were four changes in the substantive law of divorce. First, the requirement of desertion for absolute divorce was dropped from 3 years to 18 months. Secondly, the ground of pre-marital unchastity of the wife was entirely eliminated. Thirdly, voluntary separation for 5 years was added. Finally, insanity was added.

The two sets of figures therefore are not entirely comparable. However, there is a very evident increase in the percentage of persons using the ground of desertion (62.7% to 73.6%) and an even more evident decrease in the percentage of those getting divorces for adultery (36.7% to 20.8%).

The shift in the grounds for which the divorces were granted may be illustrated in another way. The number of absolute divorces increased by 231% (1943 to 6430). However, while those granted for desertion increased by 289% (1218 to 4733), those granted for adultery increased only by 87% (714 to 1337).

In addition to the general trend toward a higher divorce rate, therefore, plaintiffs are tending to shift the grounds alleged in order to use the more liberal (and in a sense, the less serious) ones.

4. Types of action. The comparisons of the grounds of divorce and annulment cases can be combined to show the trend in the type of action filed, as between 1929 and 1945:

Type of action	1929	1945
Absolute divorces	82.%	95.8%
Limited divorces	13.%	2.9%
Annulments	2.%	1.3%
Alimony	3.%	*

So far as the two figures may be used to demonstrate a trend, they show a sharp reduction in the ratio of limited divorces and a compensating increase in the absolute divorces.

5. Baltimore City and the counties. Detailed figures for Baltimore City and the counties covering the 1945 divorces and annulments are in the Appendix, Table A. Taken individually, the county figures are too small to be used statistically, but there is one odd contrast as between the totals for all the counties and those for Baltimore City.

Table A shows 6430 absolute divorce decrees granted in 1945, there being 3912 in Baltimore City and 2518 in the counties. For the entire State, 73.6% of these a vinculo decrees were for 18 months desertion, while 20.8% were for adultery. However, the Baltimore City and county percentages differ materially from the State ratios. The figures follow:

	Number of absolute divorces	Percentage granted for desertion	Percentage granted for adultery
State	6430	73.6%	20.8%
Counties	2518	67.1%	28.0%
Baltimore City	3912	77.8%	16.2%

Thus, there was a distinctly greater tendency for plaintiffs to charge desertion, and a clear lesser tendency for them to charge adultery, in Baltimore City as compared to the counties. A test of the 1944 figures showed a result closely comparable to that of 1945.

*No report is made to the Bureau of Vital Statistics of cases asking for alimony alone, so that no tabulation could be made under this heading for 1945.

Persons closely familiar with divorce cases are slow to accept any statistics concerning the grounds, claiming that the grounds specified in the bill of complaint may not be the actual ones. Further, they say, when the plaintiff is not mentioning the actual cause for the divorce, his tendency is to put a "less serious" one in the bill of complaint, in order to avoid so far as possible any impairment of the family's reputation. This postulate could explain the disparity between the Baltimore City and county figures as to these two most important grounds for a vinculo divorce.

Another possible trend is raised by the comparable figures for total divorces and annulments granted in 1944 and 1945. In Baltimore City the figure increased from 4023 to 4080, for an increase of about one percent in the number of divorces and annulments. In the counties, however, the increase was from 2046 to 2631, for an increase of nearly 29%. These figures are shown in the Appendix.

F. Serving Process on the Defendant.

After the plaintiff in a divorce suit has filed the bill of complaint, notice of the pending suit must be served upon the defendant, in order that he may know of the proceedings and be permitted to have "his day in court." The procedure for giving such notice, or serving process, is the same for divorce suits as for equity cases in general. A number of members of the Maryland judiciary, writing independently to the Legislative Council, have expressed the opinion that in some instances our system of serving process does not accomplish its purpose, particularly in the case of a non-resident defendant.

If a divorce suit is filed against a resident of the State, service of process is made by a sheriff (Art. 16, sec. 165). The Court thereupon has this officer's certification that the defendant has been apprised of

the action pending and of the time allowed for answer. However, if the sheriff is not able to find the defendant and the process is returned "non est" (Art. 16, Sec. 141), or if the defendant is a non-resident (Art. 16, Sec. 149), it is further provided that the court may order notice to be given by publication.

Service by publication is to be made "in one or more newspapers, stating the substance and object of the bill or petition....., and such notice may be published as the court may direct, not less, however, than once a week for four successive weeks...." (Art. 16, sec. 149).

A non resident defendant also may be given personal service, the procedure being to have the papers served by the sheriff or some other person in the jurisdiction in which he happens to be. It is not known how frequently each of these alternate methods of service is used for non-resident defendants, but letters received by the Council from judges all over the State indicate that service by publication is the usual practice.

The weaknesses inherent in the system of serving notice by publication alone are well illustrated in the recent Croyle case,[1] decided by the Maryland Court of Appeals. That case involved a husband and wife who had married in 1901 and lived together until 1934, at which time they entered into a separation agreement. From 1924 to 1934 they had been living in the District of Columbia, and the wife remained in the same house after the separation. In 1937 the husband went into the Circuit Court for Prince George's County and filed a suit for absolute divorce, falsely charging that the wife had deserted him. Although she was still in the house where he himself had resided for ten years, the only notice given to her as the defendant was by

[1] Croyle v. Croyle, 40A. 2d 374 (1944)

publication in a County newspaper, which she presumably had no occasion ever to read. The divorce was granted in November, 1937, and it was not until several weeks thereafter that the wife learned of it. In the 1944 case, the Court of Appeals nullified the husband's divorce decree, because of his fraud.

A number of members of the judiciary in Maryland have written to the Legislative Council their belief that some improvement should be made in the manner of giving notice to non-resident defendants. One of the county judges, for example, wrote as follows:

> As we all know, the majority of these divorces are decreed after notice by publication, which is a mere formality and gives in fact no notice at all to the defendant of the proceedings, because the notices appear in local county papers which have little if any circulation outside their own borders and which are seldom if ever seen by the persons affected. I am, of course, aware of the section of the code providing for personal service outside of the State, but this, I think, is at best only an alternative method and is seldom if ever used particularly in our Court . . . The number of non-resident divorces is increasing and probably now exceeds those involving residents only. In many instances wives are the defendants and I am sure that all too frequently these divorces are obtained without any knowledge whatever to the defendant and under circumstances which would invalidate the decrees if an opportunity were presented to submit a defense. While I do not think the policy of the State should be one to make divorce impossible or too difficult, nevertheless, I do think that our procedure should be such as to assure some self-respect to our own decrees and in uncontested cases in many instances that element is lacking.

A member of the Court of Appeals wrote similarly that

> either by statute or rule of court, there should be more adequate requirements of personal notice; resort to publication should only be permitted where the Court is assured that the adverse party cannot be reached. There are too many fraudulent actions under the present loose system.

A like opinion came from a member of the Supreme Bench of Baltimore City:

> I have been very much disturbed by the fact that where the defendant is a non-resident, constructive notice given by order of publication is all that is required under the present Maryland law. All too frequently the plaintiff knows the exact address of the defendant, but the defendant receives no notice whatever of the pending proceedings.

There have been several instances of fraud which have come to my attention in the last few months.

Two things may be noted about the Maryland statute covering service by publication, in order to put criticism of it into the proper context. First, the Maryland statute is typical of those found in a great majority of the states. The period required for publication ranges from three to eight weeks, but otherwise there is considerable similarity among the State laws.

Secondly, the courts construe the Maryland statute strictly Thus, in an early case, service by publication for three weeks, instead of the required four, was sufficient to reverse a decree (18 Md. 305). Later, the Court of Appeals pointed out that "strict compliance with the requisites of the statute is demanded; but when this is done and the case has proceeded to final decree....., the courts will not listen to any evidence that the party has not or could not actually receive the notice, or make his appearance.... The courts in such cases act upon the presumption of notice which they will not allow to be rebutted. The whole theory of the law of constructive notice rests upon this foundation." (30 Md. 522)

The point is, therefore, that although there seems to be wide agreement in Maryland that improvements might be made in the manner of serving notice upon non-resident defendants in divorce cases, it is a legislative rather than a judicial problem, and it is a problem facing most of the states. It is the doubtful effectiveness of constructive notice, together with the equally uncertain question of bona fide domicil, which has been the cause of much of the confusion in the law of inter-state divorce, discussed in Section M of this report.

The law of constructive notice in divorce and other in rem cases can be justified perfectly well historically. Probably it also can be justified

as an abstract legal principle. Accordingly, legislatures and courts have gone on the assumption that if the non-resident defendant in a divorce case gets constructive notice by publication, even if not actual notice, that is sufficient. Historically and by abstract legal theory it has been said in effect that if one's spouse is in another state one should "keep an eye on her" and be watchful for a possible action to cut off the marriage status, just as the man who owns a piece of real property in another state has the affirmative duty of keeping his taxes paid and being watchful that the collector does not sell his land at a tax sale.

However, marriage as a social institution is sufficiently important to the State, and to every state, to justify giving more than the constructive notice now required. As a simple social proposition, it should not be disputed that every person who has a divorce decree rendered against him should have had an actual opportunity to defend, if there was any reasonable possibility of giving him such actual notice.

A number of suggestions have been made for the improvement of notice to the non-resident defendant.

1. Personal service. Two judges in the Third Judicial Circuit (Baltimore and Harford counties) have suggested that if the defendant's address be known, it should be mandatory to give him personal service. This procedure is now an alternate and discretionary one; all that it involves is having the sheriff or some other person in the jurisdiction of the defendant serve the papers, and to make to the Maryland court a certification or affidavit that he has done so.

Such a practice has recently been followed in the Seventh Judicial Circuit (Prince George's, Charles, Calvert, and St. Mary's counties). The

plaintiff's attorney makes the necessary contact with the peace officer in the other state, arranges to have notice served, and pays the fee therefor. If actual notice of the pending suit cannot be given to the defendant, the plaintiff is required in his bill of complaint to explain the reason. If a decree pro confesso is being given (i.e., if the defendant has either never appeared or has appeared but not answered and the plaintiff is getting his decree by default), the practice in the Seventh Circuit is now to require the plaintiff to show by affidavit that a copy of the order of publication has been received by the defendant, or else to explain why actual notice to the defendant is impossible.

2. Service by registered mail. A number of judges and court clerks have suggested that a non resident defendant may have process served upon him by registered mail. This procedure recently was followed for two years, so there is some index to its possibilities.

By ch. 516 of 1941 the legislature added this proviso to the procedure in divorce cases against non-residents (Art. 16, sec. 38 1939 Code and 1943 Supplement):

> Provided, that no decree of divorce shall be entered against a non resident, unless the plaintiff shall have stated under oath in the bill his or her knowledge and information as to the place of residence of the defendant, including street address if known, and if the plaintiff has no such knowledge or information, then he or she shall so state and also give the last known address of the defendant, and the clerk of the court shall promptly, by registered mail, send to the defendant at the address, if any, disclosed in the bill a copy of the order of publication.[1]

[1] It is interesting to note that this same provision was enacted by ch. 559 of 1929, in identical language and amending the same section of the Code (which was then sec. 37 of Art. 16, 1924 Code). The bill passed the Senate and reached third reading in the House, there it was made a special order, and then laid on the table. However, the Senate Journal showed it to have been returned from the House as having been passed. Judge Frank, in Circuit Court No. 2 in Balto. City, held that the bill had not been enacted in conformity with the constitutional requirements, as it had never passed third reading in the House (Daily Record, Oct. 28, 1929). Because of the general uncertainty caused by the act's having been found invalid by one trial court in the State, it was amended by ch. 451 of 1939 so as to make the section read as it had prior to the "enactment" of ch. 559 of 1929.

This entire provision was removed from the statute by ch. 18 of 1943, thus being in effect only from June 1, 1941 to May 31, 1943. The main cause for its removal seems to have been the complaint of some of the clerks of court that it put a considerable burden of extra work upon them and did not produce enough results in exchange. On the other hand, a number of the clerks of court recently have written to the Legislative Council their belief that the principle of notice by registered mail is a good one, and that in some form it should again be adopted.

Many of the registered letters which were sent out were returned unclaimed and undelivered, which is not strange considering that frequently they had no better address than "New York City," or some such incomplete address. The Clerk of the Wicomico County Court states that about one third of the notices mailed to non-resident defendants in divorce cases were returned because of insufficient address. The Clerk of the Frederick County Court estimates that in from 50% to 75% of the cases the addresses were so indefinite that the letters were returned.

The Clerk of one of the circuit courts in Baltimore City made an actual count of the number of registered letters sent from his office under this statute. During the two years, 975 such notices went out. Of this total, 479 were accepted by or for the addressee, while 496 letters were returned for various reasons, as not deliverable.

Even if only about half the registered letters are actually delivered, this in itself may be sufficient justification for sending them out. The more serious question arises, however, from the probability that among those instances in which the letters are returned as being undeliverable are included those cases in which the plaintiff is definitely anxious that the defendant not be given actual notice. That is, those plaintiffs who do know

where the defendant is, but who want to work a fraud upon the court and upon the defendant by hiding that fact, would be among those who give such an indefinite and incomplete address as "New York City." And, it is precisely those plaintiffs at which any new law must be aimed, for it is they who most seriously infringe upon the dignity of the Maryland courts and call into question the validity of Maryland's divorce decrees.

To meet this situation, it has been suggested that the responsibility for sending the registered letter be placed upon the plaintiff, and that he must either show the court sufficient documentary evidence as to the delivery of notice or make satisfactory affidavits in explanation.

Such an additional affirmative requirement might have the effect of making the plaintiff more aware of his duty to act without fraud, but it would actually make no basic change. It always has been a responsibility of a plaintiff to avoid fraudulent mis-statements; and when he has evaded that responsibility the divorce decree has occasionally been set aside, as in the Croyle case, and he has even been convicted of perjury.

3. Certification by plaintiff's attorney. Having in mind these limitations upon any plan for making the plaintiff responsible for serving notice to the defendant, a number of persons have made the further suggestion that the plaintiff's attorney also be required to certify to the efforts made to locate the defendant. This would be an adaptation of the procedure now followed in the speedy judgment acts of Baltimore City and more than half of the counties. These acts were designed to give a quick remedy in those contract cases in which the defendant may be able to offer little or no defense. Accordingly, they provide that if the defendant disputes any or all of the plaintiff's claim, his plea to that effect must be accompanied

by a certificate from his counsel that he (the counsel) also advised such a plea.

The suggested practice in divorce cases is that the plaintiff's attorney be given the direct responsibility for having notice served upon the defendant. He would be required to show that notice has been given, either by personal service or by registered mail, or else to explain to the court's satisfaction why the defendant could not be located.

The plaintiff's attorney is perhaps better able to judge of his good faith and of the merits of his case than is anyone else connected with the divorce action. Therefore, it is felt by those who have made this latter suggestion, the certification from the attorney that everything reasonably possible has been done to give notice to the defendant would have a unique value.

4. Rule 19 of the Supreme Bench. As one indication of the growing concern over adequate notice to non-resident defendants in divorce cases, the Supreme Bench of Baltimore City on November 15, 1945 adopted this requirement in its Rule 19:

> In all divorce and annulment of marriage proceedings where the defendant has not been served with subpoena, and has not appeared voluntarily, the complainant shall be required to make reasonable efforts to ascertain the actual whereabouts of the defendant, and, by whatever means that may be available -- that is to say, by registered mail, by wire, by telephone, or by personal interview -- to bring to the knowledge of the defendant the fact that a suit is pending against him or her, the object and purpose of which is to obtain a divorce, or to have the marriage annulled, as the case may be. In such cases, therefore, where only notice by publication has been given to the defendant, a final decree for the complainant shall not pass until a sworn statement by the complainant or his or her solicitor shall be filed which shall give a circumstantial account of the efforts of the complainant to locate the absent defendant and to warn him or her of the pendency of the suit, or until sworn evidence before the examiner shall disclose a bona fide effort by the complainant to discharge his or her obligation to notify the defendant. And the failure of the complainant to make such reasonable effort in good faith, and to offer proof thereof, shall be ground for the postponement or denial of relief (Daily Record, Nov. 17, 1945).

The new Rule of the Supreme Bench supplements the formality of notice by publication with the necessity of a reasonable effort to give actual notice to the defendant, even as informally as by telephone. It is aimed rather at the substance of giving notice than at simply the procedure of performing a prescribed ritual.

Some members of the State judiciary have suggested that the Court of Appeals by rule might make some similar requirement for the entire State.

5. Protection of Maryland residents. The immediate reason for improving the manner of serving process upon non-resident defendants would be to protect the interests of persons who are no longer residents of Maryland, but its long-time effect might be to help our own residents as well.

It frequently happens now that one spouse, say the husband, leaves Maryland while the other, the wife, stays here. Many times she is actively concerned that he may try to get a divorce in some other state, without her knowledge and ability to defend. If an improvement in the Maryland procedure should be met by reciprocal improvements elsewhere, the State would have accomplished a real service in favor of Marylanders who, in the eyes of the courts in other states, are non-resident defendants in divorce cases instituted there. It is, certainly, a nation-wide problem, so that even from a narrow and parochial viewpoint Maryland can spell out an interest of its own residents.

G. Interlocutory Decrees.

Some of those who are actively concerned about the social implications of a rising rate of divorce are casting about for possibilities to modify or even reverse the trend. One such possibility, designed to make divorce less attractive, is to increase the time required to obtain one. The result

is not only to postpone the decree itself, but also to delay any other matrimonial plans which either of the parties may have.

Two methods have been used. One is to provide that even when the decree is granted it shall not become finally effective until after whatever time is specified for the right of appeal; and the other is to have the initial decree given in temporary or interlocutory form, to become final after a prescribed time.

The District of Columbia has a statute based upon the time allowed for appeal. It reads as follows (1940 Code, sec. 16-421):

> No final decree annulling or dissolving a marriage shall be effective to annul or dissolve the marriage until the expiration of the time allowed for taking an appeal, nor until the final disposition of any appeal taken, and every final decree shall expressly so recite. Every decree for absolute divorce shall contain the date thereof and no such final decree shall be absolute and take effect until the expiration of six months after its date.

The District statute is perhaps ambiguous in its reference to final and absolute decrees which are not to be "final" and "absolute" until after the expiration of six months. A more clear cut approach is to have two separate decrees, one interlocutory and the other final. The State of Washington has an explicit and comprehensive statute of this kind (Rem. Rev. Stat., secs. 988, 988-1):

> If... the court determines that either party, or both, is entitled to a divorce an interlocutory order must be entered accordingly, declaring that the party in whose favor the court decides is entitled to a decree of divorce as hereinafter provided; which order shall also make all necessary provisions as to alimony, costs, care, custody, support and education of children and custody, management and division of property, which order as to alimony and the care, support and education of children may be modified, altered and revised by the court from time to time as circumstances may require; such order, however, as to custody, management and division of property shall be final and conclusive upon the parties subject only to the right of appeal; but in no case shall such interlocutory order be considered or construed to have the effect of dissolving the marriage of the parties to the action, or of granting a divorce, until final judgment is entered. Provided, That the court shall, at all times, have the power to grant any and all restraining orders that may be necessary to protect the parties

and secure justice. Appeals may be taken from such interlocutory order within ninety days after its entry.

> At any time after six months have expired, after the entry of such interlocutory order, and upon the conclusion of an appeal, if taken therefrom, the court, on motion of either party, shall confirm such order and enter a final judgment, granting an absolute divorce, from which no appeal shall lie.

The Washington statute permits appeals from the interlocutory order to be taken within 90 days, but the order itself may not be made final until at least six months have elapsed. The decree does not become final simply by virtue of the passage of time, but requires the affirmative action of one of the parties in order for the divorce to be made absolute. Except for the right of appeal, however, the interlocutory order is final and conclusive as to its provisions regarding property.

About a dozen states (California, Colorado, Delaware, Massachusetts, Nebraska, New Jersey, New York, Oklahoma, Utah, Vermont, Washington, Wisconsin) have adopted the interlocutory decree, permitting it to become final in from three months to one year. A majority of them require only the lapse of time for the preliminary decree to become final, while in the others one of the parties must enter a motion for the final decree.

Vernier cites a number of advantages of the system of preliminary and final decrees, including its tendency to discourage hasty divorces and to prevent hasty re-marriages and its giving to the court an opportunity to discover fraud or collusion.[1]

Divorces which take effect immediately upon the granting of the decree make possible some unhealthy situations. Thus, if one of the parties to the

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[1] American Family Laws (1932), II, 152.

divorce re-marries at once, and the divorce decree is subsequently appealed from and reversed, the second marriage thereby becomes bigamous. At the very least, therefore, there is good reason for not giving the divorce decree its final and absolute effectiveness until the time for appeal has passed. In Maryland this time is thirty days.[1]

If any statute were enacted providing for interlocutory decrees, considerable care would be required to assure that the parties to every case understood precisely what they were getting, and that there was no right of re-marriage until the decree was made final. Otherwise there would be danger of the parties to incomplete divorces rushing precipitately into re-marriages, also raising the question of bigamy.

If nothing more were desired than to discourage hasty divorces and hasty re-marriages, the device of the interlocutory decree would not be necessary. The delay could be accomplished by simply expanding the present 30-day rule of the Supreme Bench of Baltimore City into, say, a 6 month rule, the effect would be to require a 6-month interval between the time of filing the bill of complaint and the granting of a decree of divorce.

Two possible objections to this plan arise, however. First, it would not prevent the right of re-marriage for the period during which the divorce may be appealed from and hence would do nothing to prevent these second and possibly bigamous marriages. Also, it could mean in practice that several months might elapse between the time of taking testimony and having the decree granted, against the possibility that the status of the parties might have changed during the interval. The Supreme Bench of Baltimore

[1] Rule 9, as amended January 30, 1945 (Daily Record, Feb. 2, 1945). In Art. 5, sec. 36 of the Annotated Code (1939 Edition), the time for appeal in equity cases is given as two months.

City now limits this period to two months (Daily Record, November 23, 1945).

In any plan for delaying the final divorce decree, whether it be by some expansion of the 30 day rule or by the use of the interlocutory decree, it perhaps would be wise to provide for not applying the law in exceptional cases. Thus, if a right of quick re-marriage were desirable because of a pending pregnancy, discretion might be given to any judge to have the divorce decree made immediately effective. This could be worked out by requiring the certificate of a physician, as is now done to permit the issue of a marriage license to a pregnant girl under the age of sixteen years (Art. 62, sec. 7).

H. Right of Re-marriage.

Another possibility for making divorce less attractive is to limit in one way or another the right of divorced persons to re-marry. More than twenty states have done so, and this number is in addition to the dozen states which incidentally accomplish the same result by making the original decree of divorce an interlocutory one only. Maryland is among the minority of states which place no restriction upon the right of re-marriage; Maryland's statutes do not even mention the subject.

Those states which do restrict the right of re-marriage have done so in a number of ways. The simplest and most frequent is the provision that the parties to a divorce decree may not re-marry within a prescribed time. This time is set at 60 days in Alabama and West Virginia. It is six months in Kansas, Minnesota, Oregon, Rhode Island, and Virginia; and one year in Arizona. Massachusetts applies the six-month rule to the plaintiff and makes the defendant wait for two years.

A number of other states determine individually for each set of parties the period during which they may not re-marry. By all odds the most unusual

law is found in Georgia, where an absolute divorce will not even be decreed unless assented to by the concurrent verdicts of two juries, at different terms of court; and the juries determine the right of re marriage (as well as all other disabilities), subject to revision by the court. Iowa says generally there shall be no right of re-marriage for one year, unless permitted by the decree. Michigan and North Dakota have no general disability of this sort, but permit any decree to forbid the right of re-marriage to the parties concerned. West Virginia, listed above as having a general 60-day rule, also empowers the court to add an additional ten months to the guilty party's restriction.

Another device is to apply such restrictions only in particular types of cases. Thus, when a Texas divorce is for cruelty, neither party may re-marry for one year. In Indiana if the decree is obtained by default and service by publication, the plaintiff may not re-marry within two years.

Most statutes of this latter type concern only the decrees for adultery. Thus, in Louisiana, Pennsylvania, South Dakota, and Tennessee, the adulterer may not marry his accomplice while the injured spouse remains alive. New York has a similar provision, except that the court may abrogate it after three years.[1] Mississippi and Virginia courts at their discretion may prohibit the re-marriage of the guilty party.

It is somewhat surprising that so many states have restricted the right of divorced persons to re-marry, because most of these statutes are subject to a basic limitation in their effectiveness. There is no doubt about the power of any state to forbid within its own bounds the re-marriage of persons divorced in its courts, but such statutes can generally be evaded by the simple expedient of going to another state to have the ceremony performed, and the first state will itself then recognize the marriage as valid.

[1] The New York statute does not refer specifically to adultery cases, but that is now the only ground for divorce in that state.

Maryland for sixteen years once had a statute restricting the right of re-marriage. By ch. 272 of 1872 it was provided that

> In all cases where a divorce a vinculo matrimonii is decreed for adultery or abandonment, the court may, in its discretion, decree that the guilty party shall not contract marriage with any other person during the life-time of the other party, in which case the bond of matrimony shall be deemed not to be dissolved as to any future marriage of such guilty party, contracted in violation of such decree, or in any prosecution on account thereof.

This discretionary power for restricting the right of re-marriage was abolished by ch. 486 of 1888. The Court of Appeals never had before it a case involving a resident of this State who was forbidden to re-marry under the statute of 1872 and then went into another state in order to be married again. However, there were two cases which clearly showed the disposition of the Court to be that it was powerless to enforce in other states any prohibition against re-marriage.

First, in the Garner case (56 Md. 127), a divorce had been decreed in Maryland against a resident of the State of New York, and the trial court also forbade the re-marriage of this defendant. The Court of Appeals under the particular facts had no doubt of Maryland's power to divorce the parties, but it reversed that part of the trial court's decree which attempted to restrict the defendant's right of re-marriage. This much of the decree, it said, was a judgment in personam, and "judgments in personam are not binding upon persons living beyond the limits of the State, unless they voluntarily appear and answer the suit.... Such a prohibition is not necessarily a part of the decree dissolving the marriage, but in the nature of a decree in personam affecting the rights of the parties beyond the jurisdiction of the court."

Later, after Maryland's restricting statute had been repealed, the Court of Appeals had before it the question of recognition of a marriage

performed in the District of Columbia, one of the parties to which by a previous decree of divorce granted in the State of New York had been forbidden to re-marry. In this case, the Maryland Court held to the usual rule, that such a provision in a divorce decree has no effect beyond the limits of the state in which the decree is made, and does not in itself render invalid the defendant's re-marriage in another state.(107 Md. 329)

It is true that a number of states have attempted to extend into other states their prohibition of the re-marriage. In Massachusetts, for example, it is provided (Annotated Laws [1933], c. 207, sec. 10):

> If any person residing and intending to continue to reside in this commonwealth is disabled or prohibited from contracting marriage under the laws of this commonwealth and goes into another jurisdiction and there contracts a marriage prohibited and declared void by the laws of this commonwealth, such marriage shall be null and void for all purposes in this commonwealth with the same effect as though such prohibited marriage had been entered into in this commonwealth.

The Massachusetts court has upheld this law, declaring that a state may declare what marriages between its citizens shall be recognized as valid, although entered into out of the state, if entered into within the period after divorce during which re-marriage is prohibited. However, the Massachusetts court also recognized that its statute is contrary to the generally recognized rule of law.

This generally recognized rule is that if a marriage is valid where performed it is valid everywhere. Courts are loath to declare a marriage invalid, for understandable reasons of public morality. Thus, although Maryland does not by its own statutes provide for the recognition of common law marriages, it will accept a common law marriage valid by the laws of another jurisdiction. Similarly, though Maryland requires a religious ceremony for its own marriages, it will accept a civil ceremony from another jurisdiction.

However, the general rule of validity has three exceptions which are equally well recognized in most Anglo-American jurisdictions, including Maryland. Although such marriages may be perfectly valid where performed, Maryland will not recognized them if (1) polygamous, (2) miscegenetic, or (3) incestuous within the generally accepted opinion of Christendom.[1] These are the so-called "public policy" exceptions; Maryland courts say that although it ordinarily is desirable to affirm the validity of a marriage, yet any purported marriage which comes under one of these three heads is simply too much for the public policy of this State to accept.

There is a fourth exception which is applied in a number of states and which would be a possibility for making one phase of Maryland's divorce law somewhat more stringent. This is the statute found in Louisiana, Pennsylvania, South Dakota, and Tennessee, mentioned above, which forbids the adulterer in a divorce action from marrying his accomplice. Such a law goes directly to the protection of the first marriage, and it is accepted in these four states as being another "public policy" exception, sufficiently vital to the welfare of the states to justify not following the "valid where performed, valid everywhere" rule.

If such a statute were enacted in Maryland and upheld as a public policy exception, it would not prevent the adulterer and his accomplice from being married in another state and then continuing to reside outside Maryland. It would, however, cause him the inconvenience of moving and staying away, and might complicate his conveyance of real property located here and also the distribution of his property after his decease.

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[1] Fensterwald v. Burk, 129 Md. 131, 98 A. 358.

I. Proposed Changes in the Substantive Law of Divorce.

During the course of the Legislative Council's study of divorce a number of suggestions have come to it for changes in the grounds for which divorces may be obtained.

The evident interest in the subject in Maryland is only one indication of the country-wide discussions over possibilities for amending divorce laws. Perhaps the most significant of recent sets of proposals for change has come from New York, where absolute divorces now are granted only for adultery. The Association of the Bar of the City of New York recently has advocated these six additional grounds for a vinculo divorce: (1) extreme cruel and inhuman treatment; (2) such wilful conduct as may render it unsafe and improper to cohabit with the defendant; (3) abandonment; (4) neglect of or refusal to provide for the wife; (5) conviction of a felony and actual imprisonment for at least two years; (6) habitual intemperance.

The several suggestions for change in Maryland are listed below.

1. Voluntary separation. At the present time this State permits a couple who have been voluntarily separated for five years to get a divorce at the instance of either. Eleven other states have similar laws, most of them setting the period at from two to five years, though two states specify ten years of separation. This is a "newer" cause for divorce, in that it carries no imputation of guilt against either party. It was used in 319 cases in Maryland in 1945, being 5.0 % of all absolute divorces.

Senate Bill 294 of the 1945 session would have reduced the period required in Maryland from five to three years. It passed the legislature, though after having been defeated once in each house, and then was vetoed by the Governor, with the suggestion for further study of the whole broad

subject. Opinion on it is widely divided, ranging from total abolition of the voluntary separation ground to reduction of the time required to three years or even to eighteen months.

The proponents of this type of ground for divorce point to it as the only one in Maryland under which "thoroughly respectable and responsible spouses" who have made an unfortunate and unhappy marriage are allowed to terminate it without collusion and without "any violation of decency or the proprieties." Opponents of Senate Bill 294 say generally that we should have no liberalizing of the divorce laws, and more particularly that liberal divorce laws elsewhere have not ended collusive suits.

2. Involuntary separation. Another suggestion has been that the involuntary separation of the parties for as much as five years should also be a ground for divorce. This likewise would be a departure from the traditional view that divorces are granted only to an "innocent" spouse as against a "guilty" spouse. It stems apparently from the feeling that if a marriage is finally and definitely broken up, it is for the best interests of the parties and of society to have them legally divorced, regardless of fault or innocence.

Kentucky, Louisiana, North Carolina, Rhode Island, Texas, Washington, and Wisconsin have such laws, granting divorces if the parties have lived separate and apart with no cohabitation, for from two to ten years. Minnesota provides that after the parties to a limited divorce have continued thereunder for five years, either party may then ask to have the decree merged into an absolute divorce; and Virginia also permits the guilty party under the a mensa decree to have it changed to a vinculo.

3. Conviction of felony, or imprisonment. Forty states grant absolute divorces for some form of imprisonment for crime. In a majority of them all that is required is a conviction for a felony, with the divorce being granted for the stigma of the conviction plus the prospect of a lengthy involuntary separation of the spouses during the period of the imprisonment. In other states actual imprisonment (and usually in the penitentiary) is required, for periods ranging from two to five years.

Maryland is one of the eight states which make no provision for a divorce under any of these circumstances, and it frequently is suggested that this State amend its laws to care for such situations. If the innocent spouse be the wife she is admittedly left in an unfortunate predicament. Her husband is imprisoned for an extended period of years, he has no income which could be reached in a suit for alimony alone, and yet unless she resorts to collusion and perjury she is held within the marriage. One attorney who appeared before the Legislative Council spoke forcefully of such a chain of circumstances as leading the wife to form an illicit connection.

House Bill 606 of the 1945 session would have allowed an absolute divorce for "the imprisonment of either party for a criminal violation for a period of eighteen months or longer." The bill died in committee.

4. Extreme cruelty. Another recommendation has been that extreme cruelty be added to the grounds for absolute divorce. Forty-two states have such a provision in their laws, and five of the remaining six (including Maryland) use cruelty as ground for a limited divorce. The most frequently used phrase is "extreme cruelty," others being "cruel and inhuman treatment," "actual violence to the person," "intolerable severity," etc.

Only 58 limited divorces were granted in Maryland in 1945 on the ground of cruelty. However, this figure was 30% of the total of all limited divorces.

5. Marriages null and void ab initio. There is possible need for clarification as to the meaning and effect of the provision that a divorce may be granted for any cause which by the laws of this State renders a marriage null and void ab initio (Art. 16, sec. 40). No one knows precisely what sets of facts are covered by this part of the divorce law.

In the first place, does the word "laws" mean "statutory law" or "judicial law"? It usually is interpreted now as meaning the former. On the other hand, Harlan on Domestic Relations (1909 edition, p. 32) by saying that this ground for divorce covers "force, fraud, duress, etc," thereby adopted the latter meaning, since annulments for such reasons as force, fraud and duress are accomplished under the general equity, non statutory powers of the divorce court.

Assuming, however, that the word "laws" means "statutory law," the question then turns upon what statutes at a given time render a marriage "null and void ab initio." The anomalous answer is that Maryland has never had a statute which completely fits this description. It usually is considered that Maryland will grant a divorce for any cause which by statute is made a cause for annulment, yet a number of examples may be cited to show that by reason of particular wording of statutes or because of the judicial construction they have received, there is continual uncertainty as to what is encompassed within the meaning of this divorce law. In each instance, it must be kept in mind that the divorce law refers only to those marriages which "by the laws of this State" are "null and void ab initio."

First, one of Maryland's annulment statutes says that any second marriage, the first subsisting, may be declared to be "null and void" (Art. 62, sec. 16). There is no square ruling on the point by the Court of Appeals, but trial courts in Maryland occasionally dissolved bigamous marriages by divorce. By so doing, they are declaring that a marriage which is bigamous and there-

fore open to annulment as being "null and void" is also open to divorce as being "null and void ab initio." Probably, therefore, Maryland courts may dissolve a bigamous marriage by divorce as an additional and alternate form of relief to the annulment also permitted. It may be mentioned in passing, however, that the best authorities hold the children of a bigamous marriage which has been ended by divorce thereby to have been made illegitimate. Here the uncertainty is fully illustrated. Logically, one would say, a "divorce" implies a previous marriage, which in turn means legitimacy of issue. Legally, the situation seems to be that a bigamous marriage simply never existed, and even though "ended" by divorce it remains a total nullity.

Secondly, our annulment statute says that a marriage between parties related within the prohibited degrees of consanguinity is "void" and may be so declared (Art. 62, secs. 1, 16). This statute was before the Court of Appeals in the Harrison case (22 Md. 482), decided only a few years after the passage of the original divorce law and involving the marriage of an uncle with his niece. The case did not get into court until after the death of the uncle-husband, and it arose as a contest over the distribution of his property. The Court held that the word "void" in the statute does not necessarily mean "void ab initio," and that here it meant only "voidable" This meant that the marriage, if annulled at all, would have been avoided only from the time it was so declared by the Court. Here the Court refused to call the marriage void because the issue was not raised during the lifetime of both the parties; and an incidental effect was to allow the children of the uncle-husband and niece-wife to take the property as legitimate children

Whether the same reasoning would apply if the parties to a marriage were related more closely than uncle and niece is an open question. At any rate, by judicial construction we have a marriage between uncle and niece held to be only "voidable," so that there is doubt as to whether the marriage could

be construed as "null and void ab initio" and therefore subject to divorce.

Finally, there is the statute forbidding mixed racial marriages, declaring that they "are forever prohibited, and shall be void" (Art. 27, sec. 445). The Court of Appeals has said by dictum that such a miscegenetic marriage is so totally void that it could not be recognized in Maryland even if valid where performed (62 Md 17). However, the statutory proceeding for annulment does not apply to such a marriage. It has been suggested that Maryland courts could construe such a marriage as being made "null and void ab initio" by "the laws of this State" and accordingly dissolve it by divorce.[1] Again, however, the exact limits of power are uncertain.

While no one is sure just what situations are covered by the power to grant a divorce for any cause which renders the marriage null and void ab initio, it cannot be pretended that there is much public concern over it. Such cases come up very infrequently, and they are much more likely to be settled by way of annulment than by way of divorce.

b. Distinction between divorce and annulment. The six grounds for divorce in Maryland may be classified as between those which are prevenient, having existed at the time of the marriage, and those which are supervenient, having arisen after the marriage. Thus, if the divorce is granted for impotence or for a cause which by the laws of this State renders the marriage null and void ab initio, it is decreed on prevenient grounds. On the other hand, adultery, desertion, voluntary separation and insanity arising after the marriage are supervenient grounds.

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[1] The entire subject is discussed at some length by Professor John S. Stranorn, Jr., in 2 Maryland Law Review 211.

It has been suggested that the prevenient grounds should be removed as grounds for divorce and added to the grounds for annulment, in order to make a clear distinction between those apparent marriages which are dissolved by reason of never having actually existed and those real marriages which are dissolved by reason of subsequent events.

This suggestion is closely bound up with the uncertainty over the application of the statute which permits divorces to be granted for any cause which by the laws of the State renders a marriage null and void ab initio, discussed immediately above. Assuming that this statute allows divorces for any cause which by law would justify an annulment, the proposed change would have this effect: there would be three grounds for annulment (impotence, bigamy, incest), to which miscegenation might also be added, and four grounds for absolute divorce (adultery, 18 months desertion, 5 years voluntary separation, insanity).

In theory, there is good reason for separating the divorce and annulment actions, with the prevenient grounds being used solely for annulment proceedings and the supervenient grounds being applied solely to divorces. Again, however, it is a topic on which there is little expression of opinion.

If the Court of Appeals should ever hold that the children of bigamous and incestuous marriages are legitimate, when the marriage is dissolved by divorce under the null and void ab initio clause, there would be good reason for leaving the law as it now stands. To date the Court has made no ruling upon this point. While it might seem illogical to call such children legitimate, there is a clear preference in the law to accomplish legitimacy whenever possible. It can be argued, too, that the Legislature must have had some such result in mind when it seemingly provided for granting divorces on grounds also applicable to annulment.

7. Proposals involving a mensa divorce. A further suggestion is that incompatibility should be an added ground for limited divorce. New Mexico is the only state granting divorces on this ground, though in a number of instances other states have grounds which probably mean essentially the same as incompatibility.

Any proposal to change the law as to limited divorces must face the fact that few persons are interested in this form of divorce. In Maryland in 1945 there were 191 a mensa decrees granted, these being only 2.9% of all divorce and annulment decrees. Only about half the states make any provision for limited divorce; the tendency in both legislatures and courts alike is against its wider use, because of the anomalous and inconclusive status created by it. As the Court of Appeals declared in a recent case,

> ....the State, representing society as a whole, has a real and vital interest in maintaining the marital status, so that it may not be dissolved, except for grave and weighty causes. This would seem to apply with even greater force to an application for divorce a mensa et thoro, which is practically nothing more than a request for judicial permission to live separate and apart, and which must result in the condition, described by an eminent judge, of throwing the parties back upon society in the indefinite and dangerous character of a wife without a husband and a husband without a wife. (159 Md. 236).

It has been suggested, however, that by judicial construction Maryland is placing too high a standard of proof upon the complainant in an a mensa case, notably if the grounds alleged are cruelty.

Generally, the Court of Appeals requires for cruelty evidence of serious and continued acts of a weighty nature. As stated in the Bonwit case (169 Md. 189), cruelty was defined as such conduct on the defendant's part as would endanger the life, person or health of the plaintiff, or would cause the plaintiff reasonable apprehension of bodily suffering. Ordinarily, a single act of violence is not sufficient to prove cruelty, unless it indicates an intention to do serious bodily harm or is of such character as to threaten serious danger in the future (147 Md. 177).

In still another case, the Court listed a number of complaints which do not constitute legal cruelty, saying that marital neglect, indifference, failure to provide clothes and conveniences as freely as the wife might desire, sallies of passion, harshness, rudeness, and use of profane and abusive language would not give grounds for divorce, unless the plaintiff's personal security or health were endangered (151 Md. 444).

Thus, it seems generally in Maryland that some physical cruelty is necessary for divorce on this ground, and that an isolated act will usually not suffice. However, in the recent Poole case (176 Md. 696; 5 Maryland Law Review 111), a limited divorce for cruelty was granted when there had been one act of physical violence and also unjustifiable accusations of infidelity by the husband toward the wife. The Court said nothing as to intending a modification of the old rule as to cruelty, so it still is uncertain whether the Court of Appeals might be leaning toward acceptance of mental cruelty as well as physical cruelty.

One proposal is that the Legislature enact a statutory definition of cruelty, which would be less difficult to establish than the present requirement. The argument advanced is that a larger ratio of complainants than at present would then ask for a mensa decrees. The further argument is that limited divorces are better socially than are absolute divorces, in that they preserve enough of the marriage to make an easy reconciliation possible. Similarly, it is cited, if cruelty were easier to establish, many wives would be encouraged to ask for alimony (not divorce) on that score, whereas now the State is "driving" them to seek an absolute divorce on other and more serious grounds.

J. Proposed Changes in the Procedural Law of Divorce.

Another set of recommendations has come to the Legislative Council concerning possible changes in the procedure for obtaining and granting a divorce.

1. Notice to non-resident defendant. The most important of these procedural matters is that of improved notice of the pending suit being given to a non-resident defendant. This is considered at length in section F of this report.

2. Thirty-day interval after filing bill of complaint. A number of judges have suggested that there should be some fixed period of time between the filing of a bill for divorce and the decree, and thirty days has been mentioned as a proper period. Others are neutral on the proposal, feeling that it would not do much good, but also that it would do no harm.

Most divorces already require more than thirty days between the time of filing and the decree, so as to them the new recommendation would have no effect. And, since the thirty-day rule is now in effect in Baltimore City (by Rule 10 of the Supreme Bench), the only change in that jurisdiction would be the technical one of substituting a statute for a rule of court. Similarly, in a decree pro confesso following the defendant's default, a thirty day lapse is already mandatory. (Art. 16, sec. 170, 1939 Code).

The only divorces which would be affected by this proposal, therefore, would be the few in the counties which customarily are decreed in fewer than thirty days. Even as to them, if the evidence is taken before an examiner, it is to remain in court for ten days before the case may be taken up for hearing, unless the parties mutually agree to waive this period (Art. 16, sec. 288).

In an occasional case where both parties appear but there is no contest, they do so agree to waive this ten-day period and the decree may be granted in as short a time as one day. Even those judges who favor a thirty-day waiting period, however, indicate the wisdom of allowing for exceptional cases. Two of them mentioned divorces obtained by persons in military service, where the defendant's conduct was sufficiently serious as to move the court to grant the decree with all possible dispatch.

3. Two-year residence requirement. A judge of the Supreme Bench of Baltimore City has recommended that the general period of residence required for a divorce be raised from one year to two years.

Maryland's residence requirements now are as follows (Art. 16, secs. 41A and 43, 1943 Supplement):

> 1. If the cause for divorce occurred within the State, any period of residence by one of the parties is sufficient to give our courts jurisdiction;
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> 2. If the cause for divorce occurred outside the State, at least one year's residence by one of the parties is necessary to give our courts jurisdiction;
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> 3. In the one instance of absolute divorce on the ground of incurable insanity, at least two years' residence by one of the parties is required to give our courts jurisdiction.

This proposal concerns the second item above. Under it, persons residing outside the State cannot now get a divorce for a cause originating outside the State unless they become resident here and continue so for one year. This period was set at two years until decreased by ch. 90 of 1941.

Maryland is among the 25 states which set this period of residence at one year. Thirteen others require more, most of them specifying two years; Massachusetts has the most stringent requirement, five years of residence. On the other extreme, ten states require less than one year. Of the latter,

Florida (90 days), Arkansas and Wyoming (60 days), and Idaho and Nevada (6 weeks) are notable.

It is the period of residence required of outsiders which really characterizes what are called the "easy divorce" states. They are called that not simply because they may grant divorces to their own people on comparatively easy grounds, but rather because they allow outsiders to secure divorces there after satisfying comparatively easy residence requirements. Maryland's residence requirements, therefore, may be the greatest single factor in determining whether it will become an "easy divorce" state or continue its traditional conservative policy.

However, the present proposal does not involve any such fundamental question, for it would move the State only from a moderately conservative to a somewhat more conservative position.

4. Interlocutory decrees. Another recommendation is that divorces be granted initially as interlocutory decrees, not to be final until some months have elapsed. This is discussed at length in Section G of the report.

5. Right of re-marriage. Similarly, it has been suggested that the right of re-marriage of divorced persons be restricted, and this topic also is covered elsewhere in the report, in Section H.

6. Hearings in camera. A further recommendation is that most divorce cases should be heard in camera, or in private, and that the trial judge in his discretion may have the records sealed against public inspection.

This question is made partly academic by the fact that so few divorce cases ever reach the open court; an overwhelmingly large percentage of them are heard only by the examiners, and the records which are open to public inspection are routine and innocuous.

In an occasional sensational case which reaches a hearing in open court, it may be a real question of social policy as to whether spectators should be indiscriminately admitted. However, the trial courts themselves sometimes hear such cases privately; and in rare instances the Court of Appeals will not print an opinion in a case, or will print the decision and the point of law involved with no reference to the particular facts.

7. Examiner-master system. Finally, it is suggested that the examiner-master system now in use should be revised, that the two offices should be combined in one, and that there should be additional ones appointed.

The offices of master and examiner in equity are old ones, stemming from the early English courts of chancery. In the main, the master was appointed as a general assistant to the chancellor or judge, and the chief duty of an examiner was to examine the witnesses produced on either side of a case and to take their testimony under oath.

At the present time there are three masters and two examiners who assist with divorce cases in Baltimore City. The work of the examiners is the taking of testimony, and that of the masters is to make formal recommendations to the court. The masters also assist the equity courts in other than divorce cases. All five of these persons are attorneys who spend only part of their time on court work.

In the counties the courts are assisted in their divorce work by examiners only, so that the recommendation as to combining the offices of master and examiner is pertinent to Baltimore City alone.

As appellate courts often observe in refusing to reverse the findings of a trial court, whoever has listened to the parties and observed their demeanor has the benefit of direct impressions. It is, therefore, perhaps a very real

question whether the masters could not better judge the facts in the cases that come to them for recommendation, if they had the opportunity to see the parties and hear their testimony. The same question might be raised as to the examiners, since it is said that testimony is sometimes taken by the stenographers out of the presence of the examiner.

If the offices of master and examiner in Baltimore City were combined, it might be necessary to have persons who would devote their full time to this work, instead of combining it with their private practices. This raises the question of securing full-time "master-examiners" of the proper caliber and experience.

K. Proposed Changes in the Evidential Law of Divorce.

Several proposals also have come to the Council for changing in one way or another the requirements as to the evidence necessary to satisfy the courts, in divorce cases.

1. Desertion and separation obvious to the community. A number of persons have suggested a change in one phase of the law of constructive desertion. It is well settled in Maryland that if one of the parties refuses to continue marital intercourse, even though both continue to reside in the same house or apartment and in the eyes of the world have not changed their status, this constitutes constructive desertion and entitles the injured party to a divorce. The recommendation is that a change be made in the evidence required in such a case, so that no divorce may ever be granted on the ground of desertion unless the desertion was obvious to the community.

Added point is given to this suggestion by two recent extensions of the theory of constructive desertion. First, one of the circuit courts of Baltimore City has granted a divorce on the ground of constructive desertion, where

there was no refusal of marital intercourse, but simply an insistance by the husband on the use of contraceptives (Daily Record, April 19, 1944).[1]

Secondly, a number of divorces have been granted by applying the principle of constructive desertion to voluntary separation cases. Thus, persons who have throughout the entire period lived in the same house or apartment and who in the eyes of the world were both married and living together, have testified that five years or more earlier they entered into an agreement of voluntary separation and they have not since cohabited.

The possibilities for collusion and perjury on both sets of facts are obvious. The Court of Appeals has not ruled on either question.

2. Corroborative evidence. Another recommendation is that the laws of evidence in divorce cases be changed so that the corroboration of more than one person in addition to the complainant would be required.

Maryland now provides as to corroborative evidence that:

> ...in suits ... for the purpose of obtaining a divorce, ..., no verdict shall be permitted to be recovered, nor shall any judgment or decree be entered upon the testimony of the plaintiff alone; but in all such cases testimony in corroboration of that of the plaintiff shall be necessary. (Art. 35, sec. 4)

As another rule of evidence the State has enacted that:

> The admission of a respondent, of the facts charged in a bill for divorce, who consents to the application, shall not be taken of itself as conclusive proof of the facts charged, as the ground of the application. (Art. 16, sec. 45)

So far as the statutes read, therefore, Maryland requires that the plaintiff

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[1] In late 1944 the Circuit Court for Anne Arundel County granted an annulment to a husband for fraud by his wife, the specific complaint being that she insisted upon the use of contraceptives. The couple had been married about eighteen months, though most of that time the husband had been absent on naval duty. In his bill of complaint he charged that at the time of the marriage she concealed from him "a fixed, permanent, and irrevocable intention never to bear children and never to permit your complainant to engage in sexual relations with her other than with the use of methods and devices calculated to prevent her from becoming pregnant...." Case No. 2434, Divorces, Anne Arundel County 1944.

have at least one corroborative witness, and that the admission of any defendant who consents to the application shall not be taken as conclusive proof of the facts charged.

The effect of requiring more than one corroborative witness would be, of course, to increase the difficulty of the complainant in proving his case, though again the fact that so few divorces are actually contested would mean in practice that very often the difference would be an academic one only.

3. Evidence of insanity. One judge has suggested that the intention of the Legislature has not been followed in granting some divorces on the ground of incurable insanity, and that the law might be amended accordingly.

The law now says that a divorce may be granted when the spouse "has become permanently and incurably insane," if "such permanently incurable insane person shall have been confined in an insane asylum, hospital or other similar institution for a period of not less than three years prior to the filing of the bill of complaint...." (Art. 16, sec. 41A, 1943 Supplement).

The point raised is that the Legislature intended to allow the divorce only when the mental capacity of the insane person was such that he could not even comprehend the fact of divorce; and it is said that the courts have not applied such a strict requirement, since they have granted divorces from persons who were for a time in Springfield State Hospital and then were "farmed out" to private families after showing improvement.

It is true that divorces have been granted when the insane person was not actually in the asylum. The Dodrer case (37 A. 2d 919) involved this precise point, the insane spouse having been placed in a private home because of crowded conditions within Springfield State Hospital. The Court of Appeals there ruled that the insane spouse was held in an institution within the meaning of the statute.

However, the statute requires not only that the insane spouse shall

have been for three years in an asylum, hospital, or institution, but also that the divorce shall not be granted "unless the court shall find from the testimony of two or more physicians competent in psychiatry that such insanity is permanently incurable with no hope of recovery...."

The crux of the problem is whether the spouse is sane or insane. If any change is needed, therefore, it would be to place a higher standard of proof upon the alleged insanity, with the actual place of detention being a secondary matter.

On this point, the superintendent of one of the State hospitals believes that the mention of a physician "competent in psychiatry" is not sufficiently specific. Also, he adds, a really competent psychiatrist hesitates to declare anyone permanently incurable, so that in some instances it has been difficult to meet the standard of evidence required by the statute.

On these two different matters, therefore, it has been cited that the standard of evidence necessary under the insanity statute is both too low and too high.

4. Complainant's innocence. It has been recommended that Maryland make a basic change in the requirement that the complainant must be free from marital guilt in order to get a divorce based upon the other party's guilty conduct.

This requirement stems from the traditional "clean hands" doctrine of the equity courts. As stated in an early Maryland case, that general doctrine operates in equity courts in this fashion:

> It is an established principle, that to enlist the countenance of such a court in his favor, a party must always enter its doors with clean hands; and when he seeks to be relieved against injustice, arising from the bad faith of his adversary, he ought not to be obnoxious to the same imputation himself....'No man is entitled to the aid of a court of equity when that aid becomes necessary by his own fault.' (8G. & J. 170, 187)

Divorce work is part of equity's jurisdiction, of course, and it is equally well established in Maryland that the doctrine of clean hands applies to divorce proceedings (162 Md. 70, 80). Some authorities argue that this need not necessarily be so, since divorce is not historically an action in equity, having been until comparatively recent times a function either of the ecclesiastical courts or of the legislature.[1] However, in Maryland it is settled that the clean hands doctrine is applicable to divorce proceedings.

The question of the clean hands doctrine would arise typically if a wife sues for divorce on the ground of her husband's adultery, and it is then discovered that she herself has been guilty of the same offense, immediately the doctrine of clean hands is applied, and she is denied relief, and if the husband were the complainant, the same result would follow as to him.

The difficulty is that the whole philosophy of the complainant's innocence arose in cases in which there was an active contest between the two parties on the floor of the court. In this set of facts it is reasonable to deny relief to Party A, if she has been guilty of the same offense of which she complains in Party B. In the great majority of divorce cases, however, there is not such an active contest of the parties. On the contrary, there is very evident agreement between them in wanting the divorce. The suggestion is, therefore, that to apply the doctrine too rigidly in divorce cases may do more harm than good, and that at the very least it may drive the parties to perjury.

It is not required as a matter of pleading that the complainant put into the bill of complaint an allegation of personal innocence, though when

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[1] Nelson on Divorce (2nd edition, 1945), secs. 1.01, 2.05, 10.02. In West Virginia, the clean hands rule is applicable only where the plaintiff's conduct has caused or contributed substantially to the offense of the defendant which is set up as a ground for the divorce. This is a relatively limited application of the rule. Hatfield v. Hatfield, 113 W. Va. 135, 167 S. E. 89.

the master or judge is reviewing the testimony he is on the watch for an affirmative showing of good conduct by the complainant. However, most attorneys put into the bill of complaint and also into the notice by publication, if any, the allegation that the complainant has been a chaste, affectionate and dutiful spouse.

The whole sequence of events may be illustrated by situations frequently coming to the attention of the Legal Aid Bureau. Husband and wife have separated rather casually, and each is living with someone else. Their friends, or perhaps the minister, protest that they ought to make the whole thing more regular. Children are born, and the question of legitimation arises. Accordingly, husband and wife agree to get a divorce, so that they may re-marry and legitimate both their children and their present status. One of them goes to an attorney to have divorce proceedings instituted, and is immediately asked if he himself has been free from marital fault.

Either of two results may follow. First, the complainant may perjure himself and say that he has not been guilty of marital wrong; since the suit is not contested, the perjury is never discovered by the court, and the divorce is granted. Secondly, husband and wife may drop the whole idea of divorce and continue their irregular associations.

Those who criticise this traditional application of the clean hands doctrine cite that although it may be perfectly satisfactory for the few divorce cases which are actively contested, it simply prolongs an unhealthy situation when applied to marriages which quite definitely are beyond repair and in which both spouses unite in wanting a divorce.

L. Domestic Relations Court.

The general proposal has been made that Maryland establish domestic relations courts, either to operate separately or as divisions within the present Supreme Bench of Baltimore City and the circuit courts of the coun-

ties. Such a recommendation is a large question on its own right, and can here be given no more than brief mention.

Those who support the proposal for Domestic Relations courts generally envisage a court in which the social work is as important as the legal. It would have on its staff social service workers, investigators, and conciliators, the idea being that any breach in the affairs of a home should be met by attempted conciliation before the parties become involved in actual legal proceedings. Such a court or agency, it is further suggested, should in addition to divorce matters handle adoptions, juvenile delinquency cases, and non-support claims. The basic purpose, as one advocate wrote to the Legislative Council, would be to treat matters related to the maintenance of the family and the welfare of the home "with the sympathetic understanding and trained social insight that they demand."

M. Law of Interstate Divorce.

The widespread interest in problems of divorce stems not only from this State's concern in the marital status of its people, but also from the vital question of the recognition in one state of divorces granted by other states.

The basic factor in the law of interstate divorce is the full-faith-and-credit clause of the Federal Constitution (Art. 4, sec. 1) which provides that

> Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state.

If Maryland divorces two persons who have long resided here and clearly have established domicils here, there is no question of the duty of every other state to accord full faith and credit to the Maryland decree. However, if the defendant in the Maryland proceedings lives in another state, that state then has an interest in the case, and under proper circumstances may want to hold that Maryland did not have proper jurisdiction over the parties

to decree a divorce. Since a Federal question is involved, the Supreme Court then becomes the final judge of the issue.

1. The Haddock Case. Cases concerning the recognition of foreign divorces have come to the Supreme Court on many points, with the Haddock case[1] until recently being the basic and controlling one.

The Haddock case came up after a wife sued her husband for divorce, in New York State. Among others, he raised the defense that some years earlier he himself had secured a divorce from her, in Connecticut. This was true. The wife at that earlier time was a non-resident of Connecticut and had not appeared in the case there. The question for New York to decide, therefore, was whether it was bound to give full faith and credit to a Connecticut divorce granted against a non-resident, non-appearing defendant. New York decided that it was not bound to recognize the Connecticut decree, and accordingly went on to grant a divorce of its own to the wife. In all this the New York courts were finally upheld by the Supreme Court of the United States.

Commentators still are not entirely agreed as to what the Haddock case decided, for in addition to its decision on the bare facts outlined above it went on to comment on other fact situations and cases in interstate divorce. However, as to the requirement for full faith and credit when only the plaintiff was domiciled in the state granting a divorce, one local authority on divorce law[2] has made this summary of the over-all situation following the Haddock case:

1. The plaintiff must have a valid domicil in the state granting the divorce;

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[1] Haddock v. Haddock (1906), 201 U. S. 562, 50 L. Ed. 867, 26 S. Ct. 525

[2] Prof. John S. Strahorn, Jr., University of Maryland Law School. See 32 Illinois Law Review 796 (1938).

2. This alone will not entitle the divorce to full faith and credit among the other states; there must be something else;

3. This "something else" may be (a) personal service on the defendant within the granting state, (b) voluntary appearance by the defendant, or (c) matrimonial domicil, meaning that the state granting the divorce is also the domicil of the marriage and that the defendant is unjustifiably absent therefrom;

4. The important element in this "something else" is that it makes more feasible an appearance and a defense by the defendant.

2. The Williams Case. Some years ago a small-town storekeeper living in North Carolina and the wife of his clerk decided to divorce their respective spouses and marry each other. They went to Las Vegas, Nevada, lived in an automobile court, and at the end of six weeks each filed a suit for divorce.

Both defendants were still in North Carolina; neither was served with process in Nevada, and neither entered an appearance. In the case of the woman plaintiff, there was publication of the pending suit in a Las Vegas newspaper; and a copy of the summons and complaint were mailed to her husband and received by him. In the case of the man plaintiff, the wife in North Carolina had delivered to her by the North Carolina sheriff a copy of the summons and complaint.

On the day the second divorce was granted, the parties were married in Nevada and immediately returned to North Carolina. There they were indicted for bigamous cohabitation, and convicted, and their appeals ultimately brought them to the Supreme Court of the United States.

The State was resting its prosecution upon the Haddock case and therefore made no issue of the Nevada court's finding of bona fide domicil there. For that reason, the Supreme Court simply assumed a bona fide domicil of the two plaintiffs in Nevada. It then went ahead specifically to overrule the Haddock case. The Court admitted that within the limits of her own political

powers North Carolina could enforce her own policies as to marriage, but cited that society has an interest in the avoidance of polygamous marriages, and that when one state has jurisdiction over one of the parties and follows the requirements of procedural due process in granting a divorce against an absentee spouse, every other state must accord full faith and credit to the divorce.[1]

Thus fortified with a decision of the Supreme Court, the two divorcees went back to North Carolina, only to meet another indictment and conviction on the charge of bigamous cohabitation. The State now made a finding that they had not acquired a bona fide domicil in Nevada so as to permit that state to assume jurisdiction over them and over their marriage status. Again the case finally came up to the Supreme Court of the United States.

This time it was held, from the facts already given, that the North Carolina jury was reasonably justified in its finding that the parties went to Nevada solely in order to get a divorce and that they intended all along to return to North Carolina when that purpose was completed. Such an intention, said the Court, precludes the acquisition of a bona fide domicil in Nevada, and the Nevada divorce decrees therefore were not entitled to full faith and credit among the other states.

Furthermore, the Court point out, it would be equally intolerable on the one hand that any state which granted a divorce could foreclose every other state from questioning it, and on the other hand that any state could have controlling authority to nullify divorces granted elsewhere. The necessary accommodation between the two states is to be left to neither, but the Supreme Court of the United States is to consider all such controversies and

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[1] Williams and Hendrix v. North Carolina (1942), 317 U.S. 287, 87 L. Ed., 279, 63 S. Ct. 207.

make a final decision.[1]

What it all comes to now, therefore, is this: a divorce granted in one state is entitled to full faith and credit among all states, unless another state finds (a) that the requirements of procedural due process were not complied with; or (b) that neither of the spouses had a bona fide domicil in the granting state; and the ultimate decision of any conflict rests with the Supreme Court.

3. The Proposal for Federal Laws. As one result of the extensive variety of marriage and divorce laws among the states, and more particularly of the litigation involving the validity of divorces, it has been recommended that the whole field be turned over to the Federal government. Senator Arthur Capper, of Kansas, has been especially active in favor of such a change.

Senator Capper has first sponsored this proposed amendment to the Constitution of the United States:

> The Congress shall have power to make laws, which shall be uniform throughout the United States, on marriage and divorce, the legitimation of children, and the care and custody of children affected by annulment of marriage or by divorce.[2]

Secondly, he has introduced into the Senate his uniform marriage and divorce bill,[3] which he is proposing as the form for Federal regulation if and when the constitutional amendment should be passed.

The Capper bill would regulate marriage more closely than divorce. Application for a license would have to be made two weeks in advance of the ceremony, subject to exceptions by a judge of the probate (i.e., orphans') court.

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[1] Williams and Hendrix v. North Carolina (1945) 89 L. Ed. Advance Opinions 1123; 65 S. Ct. 1092.

[2] 79th Congress, 1st session, S. J. Res. 47, intr. March 13, 1945.

[3] 79th Congress, 1st session, S. 726, introduced March 13, 1945.

A license could not be issued to one who is under age, or to one who is insane, epileptic, feeble-minded, or to one afflicted with tuberculosis or a venereal disease, or to an imbecile or pauper, or to persons related within specified degrees of consanguinity. Both parties must apply for the license, and a public record of the application is to be posted for the two week period. Other extensive requirements cover the license clerk and the person who officiates at the ceremony.

Divorces under the Capper bill would be granted for the following six causes: adultery, cruel and inhuman treatment, abandonment or failure to provide for one year or more, habitual drunkenness, incurable insanity, and conviction for an infamous crime. These would all be absolute divorces, no provision is made in the bill for limited divorce. Notice would be given to a non-resident defendant by publication in the jurisdiction of the court, likewise by publication in the county and State wherein the defendant was last known to reside, and also by notice mailed to his last known address. If the defendant makes no bona fide appearance for the purpose of making a good-faith defense, the prosecuting attorney where the court is located is to enter his name on the appearance docket and "resist and defend said petition on behalf of and in the name of the State."

Divorce decrees would be interlocutory for one year. Alimony could be decreed and also full provisions made for minor children. The enforcement of the entire act would be in state courts.

4. Uniform State Laws. For more than forty years there have been efforts among the states to achieve uniformity in their treatment of divorce problems. Most of the work has been done by the Commissioners on Uniform State Laws, and although in some fields the work of the Commissioners has been highly successful, very little has been accomplished in the field of

domestic relations.

As early as 1907 a proposed uniform state law on annulment and divorce was adopted by the Commissioners on Uniform State Laws, and recommended to the states. Briefly, it listed as grounds for an annulment of marriage these conditions, if they existed at the time of marriage:

(1) Impotence;
(2) Marriage within prohibited degrees of consanguinity;
(3) Bigamy;
(4) Fraud, force or coercion;
(5) Insanity;
(6) Wife under 16 years of age;
(7) Husband under 18 years of age.

Absolute divorces would have been granted on these grounds:

(1) Adultery;
(2) Bigamy;
(3) Imprisonment for crime for 2 years;
(4) Extreme Cruelty;
(5) Desertion for two years;
(6) Habitual drunkenness for two years.

Finally, limited divorces would have been decreed for these causes:

(1) Adultery;
(2) Bigamy;
(3) Imprisonment for crime for 2 years;
(4) Extreme Cruelty;
(5) Desertion for two years;
(6) Habitual drunkenness for two years;
(7) Hopeless insanityof husband.

The proposed uniform bill also contained extensive sections on jurisdiction, domicil, and other procedural matters, but these have been outmoded by changing judicial construction.

The Maryland Commissioners on Uniform State Laws recommended to the General Assembly of 1916 the entire uniform law. Thereafter, in 1918 and for a number of years during the 1920's, they recommended only the procedural patts of the uniform bill, leaving out the proposals as to the grounds for annulment and divorce.

Similarly, much of the recent work on divorce done by the National Con-

ference of Commissioners of Uniform State Laws has been on questions of domicil and of jurisdiction. The latest action occurred at the Conference in September, 1944, at which a special committee was appointed to consider a proposed Uniform Divorce Jurisdiction Act. This committee had by December, 1945, formulated a tentative draft of a proposed act, which of course must go before the entire National Conference before being ready for recommendation to the states.

N. Appendix - Divorce and Annulment by Counties, 1945.

Table A. Divorces and Annulments Granted in Maryland, by Counties and Grounds, 1944 and 1945.

County	Totals of all Divorces and Annulments		Sub-totals					
			Absolute Divorces		Limited Divorces		Annulments	
	1944	1945	1944	1945	1944	1945	1944	1945
State - Totals	6069	6711	5847	6430	146	191	76	90
Baltimore City	4023	4080	3861	3912	112	125	50	43
Counties - Total	2046	2631	1986	2518	34	66	26	47
Allegany	332	433	312	412	9	9	11	12
Anne Arundel	134	132	132	129	2	2	-	1
Baltimore Co.	168	256	166	245	2	10	-	1
Calvert	19	22	19	21	-	1	-	-
Caroline	26	30	26	30	-	-	-	-
Carroll	46	61	46	57	-	3	-	1
Cecil	84	91	75	84	-	-	9	7
Charles	16	29	14	27	2	-	-	2
Dorchester	80	90	80	88	-	1	-	1
Frederick	144	182	141	176	3	6	-	-
Garrett	31	28	31	24	-	3	-	1
Harford	68	121	65	111	3	4	-	6
Howard	26	34	25	31	1	2	-	1
Kent	14	33	14	33	-	-	-	-
Montgomery	115	165	109	152	4	10	2	3
Prince George's	246	294	237	285	6	5	3	4
Queen Anne's	12	19	12	19	-	-	-	-
St. Mary's	11	5	11	5	-	-	-	-
Somerset	34	46	34	42	-	4	-	-
Talbot	25	27	25	27	-	-	-	-
Washington	272	336	269	327	2	4	1	5
Wicomico	108	137	108	134	-	2	-	1
Worcester	35	60	35	59	-	-	-	1

Table A. Divorces and Annulments Granted in Maryland, by Counties and Grounds, 1944 and 1945 (cont.)

County	Absolute or A Vinculo Divorces											
	18 Months Desertion		Adultery		Voluntary Separation		Insanity		Impotence		Null & Void	
	1944	1945	1944	1945	1944	1945	1944	1945	1944	1945	1944	1945
State - Totals	4412	4733	1120	1337	283	319	26	27	3	6	3	8
Baltimore City	3041	3043	603	633	197	215	17	10	1	5	2	6
Counties-Totals	1371	1690	517	704	86	104	9	17	2	1	1	2
Allegany	197	254	111	155	2	-	1	3	1	-	-	-
Anne Arundel	106	100	25	28	-	-	-	-	1	-	-	1
Baltimore Co.	126	195	40	46	-	3	-	1	-	-	-	-
Calvert	12	13	4	7	3	-	-	1	-	-	-	-
Caroline	18	19	7	11	1	-	-	-	-	-	-	-
Carroll	26	36	15	18	2	3	3	-	-	-	-	-
Cecil	58	64	17	15	-	4	-	1	-	-	-	-
Charles	13	19	1	7	-	1	-	-	-	-	-	-
Dorchester	57	63	15	20	7	4	1	1	-	-	-	-
Frederick	69	73	57	87	14	16	1	-	-	-	-	-
Garrett	26	16	3	8	2	-	-	-	-	-	-	-
Harford	44	81	11	17	10	10	-	3	-	-	-	-
Howard	19	25	6	6	-	-	-	-	-	-	-	-
Kent	13	31	1	2	-	-	-	-	-	-	-	-
Montgomery	81	101	23	30	5	19	-	-	-	1	-	1
Prince George's	179	229	41	36	16	17	1	3	-	-	-	-
Queen Anne's	11	18	1	1	-	-	-	-	-	-	-	-
St. Mary's	10	5	-	-	1	-	-	-	-	-	-	-
Somerset	27	33	4	5	3	4	-	-	-	-	-	-
Talbot	24	24	1	3	-	-	-	-	-	-	-	-
Washington	153	158	109	159	7	7	-	2	-	-	-	-
Wicomico	73	96	23	34	10	4	2	-	-	-	-	-
Worcester	29	37	2	9	3	12	-	1	-	-	1	-

Table A. Divorces and Annulments Granted in Maryland, by Counties and Grounds, 1944 and 1945 (Cont.)

County	Limited or A Mensa Divorces						Annulments					
	Cruelty		Vicious Conduct		Simple Desertion		Too Closely Related		Bigamous		Non-statutory	
	1944	1945	1944	1945	1944	1945	1944	1945	1944	1945	1944	1945
State -- Totals	55	58	-	3	91	130	-	-	25	40	51	50
Baltimore City	42	28	-	3	70	94	-	-	10	20	40	23
Counties - Totals	13	30	-	-	21	36	-	-	15	20	11	27
Allegany	6	9	-	-	3	-	-	-	4	3	7	9
Anne Arundel	-	-	-	-	2	2	-	-	-	1	-	-
Baltimore Co.	-	1	-	-	2	9	-	-	-	1	-	-
Calvert	-	-	-	-	-	1	-	-	-	-	-	-
Caroline	-	-	-	-	-	-	-	-	-	-	-	-
Carroll	-	-	-	-	-	3	-	-	-	-	-	1
Cecil	-	-	-	-	-	-	-	-	7	2	2	5
Charles	1	-	-	-	1	-	-	-	-	2	-	-
Dorchester	-	1	-	-	-	-	-	-	-	-	-	1
Frederick	3	5	-	-	-	1	-	-	-	-	-	-
Garrett	-	3	-	-	-	-	-	-	-	-	-	1
Harford	1	4	-	-	2	-	-	-	-	3	-	3
Howard	1	-	-	-	-	2	-	-	-	1	-	-
Kent	-	-	-	-	-	-	-	-	-	-	-	-
Montgomery	1	2	-	-	3	8	-	-	1	1	1	2
Prince George's	-	-	-	-	6	5	-	-	3	3	-	1
Queen Anne's	-	-	-	-	-	-	-	-	-	-	-	-
St. Mary's	-	-	-	-	-	-	-	-	-	-	-	-
Somerset	-	1	-	-	-	3	-	-	-	-	-	-
Talbot	-	-	-	-	-	-	-	-	-	-	-	-
Washington	-	2	-	-	2	2	-	-	-	2	1	3
Wicomico	-	2	-	-	-	-	-	-	-	1	-	-
Worcester	-	-	-	-	-	-	-	-	-	-	-	1

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