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The King County Family Court

Alice O'Leary Ralls

THE KING COUNTY FAMILY COURT

ALICE O'LEARY RALLS*

The 1949 Washington Legislature made it mandatory for every County in the State of Washington to set up a Family Court of Conciliation as a branch of the Superior Court. RCW 26.12.010 *et seq* [REM. SUPP. 1949 § 997-30 *et seq*]. Pursuant to that mandate such a court has been in operation in King County since February, 1950. By decision of the Superior Court Judges, the Juvenile and Family Court Departments have been combined into a single administrative unit under the supervision of Judge William G. Long.

PURPOSE AND SCOPE

The general purpose and scope of the act is summarized in RCW 26. 12.090 [REM. SUPP. 1949 § 997-38] as follows:

> Whenever any controversy exists between spouses which may result in the dissolution or annulment of the marriage or the disruption of the household, and there is any minor child of the spouses or of either of them whose welfare might be affected thereby, the Family Court shall have jurisdiction over the controversy and over the parties thereto and all persons having any relation to the controversy as provided in this Act.

The act covers controversies arising prior to, during or subsequent to formal legal actions concerning divorce, annulment, or separate maintenance. While the law seems to concern itself primarily with situations where there are minor children, it does provide that the conciliatory machinery may be invoked when children are not involved so long as such cases do not impede the handling of cases involving children. RCW 26. 12.210 [REM. SUPP. 1949 § 997-50].

Cases come into Family Court by petition of either party, on motion of the attorney, or by referral of any judge on his own motion. No filing fees are required and the court staff assists applicants in making out petitions upon request.

In those cases presented to Family Court prior to legal action, the parties are usually requesting assistance in determining whether to commence a divorce action or to attempt to adjust their difficulties without such action. Experience has shown that the difficulties between

* Supervisor of the King County Family Court.

husband and wife can be much more easily worked out before a divorce action has been filed. After legal action has been taken the possibility of talking things over is much more difficult.

After a divorce action has been filed in Superior Court, the case is transferred to the Family Court on written motion and order. The order of transfer is signed *ex parte* by the Presiding Judge as provided by law without argument of counsel. While the case is in Family Court, all matters then pending in Superior Court are stayed. It may be retained by the Family Court for a minimum period of thirty days or a longer period at the discretion of the Court if the conciliation proceedings have not been determined. If it appears that the conciliation procedure is futile, the case is immediately remanded back to usual court procedure for court disposition. The Court may retain jurisdiction of the case for a maximum of ninety days provided, however, that the maximum period may be increased with the consent of both parties.

All petitions are presented directly to the Supervisor who first interviews the petitioner in order to secure certain statistical information and also to determine the apparent cause of discord. The law specifically provides that the hearing will be conducted informally as a conference. RCW 26.12.170 [REM. SUPP. 1949 § 997-46]. After this conference, the other spouse (respondent) is requested either directly or through his attorney, if he has one, to come in for a conference and present his views in the matter. If the respondent ignores the request or refuses to come in for a conference, the Court then has the authority to issue a citation requiring him to appear at a specified time and place. This power to issue a citation and require the attendance of the respondent and other witnesses has proven very valuable to the Court, as it is practically impossible to adjust difficulties unless both parties are before the Court. If friction between the spouses has been caused by third parties, these parties may be brought before the Court in order to determine just what place they have in the case. Although the Court does not enjoin third parties from interfering, it does point out the consequences of such actions. We feel, however, that in many cases third party interference, like alcoholism, is merely a sympton of trouble and not the basic reason for difficulty. After the conferences with each party, a joint conference is held and an effort is made to advise the parties of the resources in the county which may be utilized in working out their problems. Upon the suggestion of Family Court, the parties have invoked the aid of physicians, psy-

chiatrists, religious advisors, etc. Any expense involved in this respect must, however, be borne by the parties, as provided by law.

Many homes are apparently broken up because of the excessive use of liquor by either or both spouses. With the consent of the parties, the Court has called upon Alcoholics Anonymous, private sanatoria, and the Rehabilitation Center. The Court has endeavored at all times to use such facilities as now exist in the community in an effort to assist parties in working out their difficulties. The Court has determined in some cases that financial problems are tearing the family apart, and in such instances it endeavors to assist them in working out budgeting, provisions for medical care, and credit planning.

A remarkable amount of clash develops over such issues as interpretation of decrees, reasonableness of visitation, nonpayment of support money, and modification of decrees on the ground of changed conditions. Experience has shown that many of these situations will yield to the process of conciliation, and "agreed orders" are entered covering the situation. If a husband refuses to support his wife and family while the case is before the Court, the matter is dismissed and remanded to Superior Court for further action. The Court has, at all times, attempted to maintain its character of cooperation, conciliation, and agreement, and frowned upon any effort to force the parties into some affirmative act. If the parties will not cooperate with the Court, the case is dismissed. It is our policy not to litigate controversial issues in connection with Family Court matters.

The great bulk of the work done with post-divorce problems concerns itself with attempting to define and work out the phrase "reasonable times and places for visitation of minor children," as stated in the divorce decree. Experience has shown that at the time of the entry of the decree, there is, many times, such bitterness that it is impossible for the parties to agree on what is "reasonable." It is suggested that attorneys work out as specifically as possible the question of visitation at the time of the entry of the decree, in order to avoid future litigation.

If the parties agree, an order is entered confirming the agreement. If an agreement is doubtful, the whole matter is reviewed in a conference or series of conferences between the Supervisor, Judge, and the parties. If an agreement appears impossible after such conferences the matter is formally dismissed.

It is our policy not to permit the Family Court procedure to be

used for the mere purpose of delaying an action pending, and accordingly, whenever it appears that such intent is present, or that conciliation procedure is futile, the case will be immediately remanded back to general court procedure for disposition.

The matters presented to the Family Court are considered strictly confidential and are not passed on to the Superior Court Judge hearing the case, when there is a dismissal from Family Court. The facts presented to the Family Court are secured in a very informal way and much of it is hearsay. We feel that the basic legal rights of both parties must be preserved and their case presented to the trial Judge according to the laws of evidence. It is necessary to keep the proceedings in Family Court strictly confidential in order to maintain the confidence and cooperation of the parties.

Statistical Information

During the period of February 1950, when the King County Family Court was established, through June 1952, there have been filed 957 cases. Of these 406 were filed after a divorce had been started, 485 were pre-divorce cases, and 66 post-divorce cases. During this period 49 per cent of the cases were disposed of as apparently settled by agreement and 51 per cent were dismissed as apparently impossible of solution. Within the last month a check was made on all the apparent agreements to determine whether or not divorce actions had subsequently been filed and it was found that 85 per cent of the agreements remained in effect and the parties were still together. There were 1846 children involved in these cases. Of the petitions filed in Family Court 58 per cent were filed by men and 42 per cent by women.

General Observations

Repetition has dulled the impact of the axiom that the family is the cornerstone of our civilization, but it is no less true. Much study has been made as to what happens to the atom at the moment of explosion. What happens to people after their marriages are split can be more significant than the atom bomb. It does have a great effect on the pattern of American customs, attitudes and morals. It must have an even greater effect on future generations, as many children are affected both at the time of and after the granting of the divorce.

The ever increasing divorce rate has been viewed with alarm in pulpits, clinics, courtrooms and the press. The most recent report in the United States covering the divorce rate was made for the year 1950

and showed that there were 385,144 divorces in that year. From this report, it is evident that the happiness of some 790,288 adults was at stake; and estimating two children to the family, almost 800,000 children were deprived of a home with two parents. In the year 1950, there were 4,979 divorces in King County compared to 8,662 marriages, and in the year 1951, there were 4,985 divorces compared to 8,270 marriages.

The average hearing time for uncontested divorce cases in King County is approximately six minutes. Six minutes to examine a problem which has its roots in the whole lives of a man and his wife, a divorce which may scar the children of that couple forever. Though they have sought a divorce, many women are astonished and even upset by the assembly line technique and the ease and speed with which they are legally separated from the men with whom they had lived for years and to whom they have borne children.

Our country's shocking divorce rate, the highest in the world, could be cut to a great extent if we tried to cure sick marriages by treatment instead of rushing them into the execution chamber of divorce.

After having presided over approximately 4,000 hearings or conferences since the inception of Family Court, the writer is convinced that at least half of the people who start divorce suits are really hoping that something will stop them before it is too late. They insist they want a divorce, but at the same time they are wishing that somebody will step in and straighten things out. The tragedy is that in most cases nobody does. The vast majority obviously go into divorce without thinking through what it may entail; they think that divorce will automatically solve all their problems, but they are shocked and bewildered when they discover that it not only failed to cure everything but started a whole new set of problems and heartaches.

Most of the shattered marriages and broken homes are needless tragedies. There are few insoluble basic difficulties in most of the cases. Impulse, pride, anger, stubborness and misunderstandings lead couples into divorces which deep down they do not really wish. There is considerable evidence that almost half of the divorces could have been averted if someone had stepped in at the right moment and talked sense to the parties. Simply talking over their marital problems makes some parties see them in a different light. "I wish I could have talked to some one like you before it was too late," has been heard many times in Family Court. Sometimes it is only necessary to ask a few questions

and above all be a good listener. Having gotten their bottled-up complaints off their chests, they are more ready to listen to reason. Often their own words lead them to see flaws in themselves and to realize that successful marriage requires two people to work at it.

It is usually the children who suffer the greatest emotional shock in the break up of a marriage. The worst blow to them and the one with the most lasting after-effects is the feeling of rejection. As a defense against further hurt the rejected child develops a strong resistence to those who have any authority over him and becomes more or less unapproachable. Criminologists have stated that "the roots of delinquency are to be sought in the emotional rejection of children by one or both of their parents." A study of Juvenile Court records shows that over half of our dependent and delinquent children come from homes broken by death, divorce, separation or desertion. The number of children thus handicapped is a national tragedy. The effect of divorce upon children is therefore many times that of the worst plague which ever struck this country. Approximately 80 per cent of the mothers have to work to augment the support order. Working, though it eases the financial problems, creates other problems usually revolving around the care of the children while the mother is away earning a living. The mother, financially pressed and emotionally depressed, may break down mentally and morally. The children, minds and bodies warped by neglect, may become social misfits. Last year in the State of Washington, we spent almost $14,000,000 through the Aid to Dependent Children program, and a large portion of this was for the support of children of divorced or separated parents.

It is our hope that attorneys will encourage their clients to try the conciliation procedure whenever they feel that there is a reasonable possibility of success and before the divorce action is filed. We believe that whenever it appears to any judge in a divorce case being heard that the controversy before the court might possibly be adjusted by the conciliatory process, it would be worth while to transfer the matter to the Family Court forthwith on the court's own motion.

If parties can be induced to submit their points of serious controversy before the filing of legal action and at a time when both parties really want to make the marriage succeed, we believe the Family Court can assist them. Even after the commencement of legal action, we believe that there are quite a number of cases that will yield to the conciliatory procedure. If the basic differences are so grave that re-

sumption of unity is impossible, nevertheless, we believe that the conciliation procedure may help in resolving such controversial matters as division of property, custody and visitation of children, and support money allowances. If even these controversial matters can be resolved without battle, we believe that both the parties and the children can be spared some of the trauma that is so disastrous to the future happiness of all concerned.

Entirely aside from consideration of the conservation of human values, we believe that effective application of conciliation procedure to various phases of domestic strife will result in substantial economy of court time, tend to relieve the congestion of court calendars, and save the taxpayers substantial sums of money in uniting families and thus preventing children from becoming public charges.

We do not claim that the Family Court can reconcile all cases, nor is it always wise to do so, but it can assist in cutting down the shocking divorce rate and salvage incalculable values in terms of human happiness. As stated previously, with even our limited experience, 49 per cent of our cases have yielded to conciliation. We are convinced that if judges, lawyers and responsible public leaders would resolve to do their collective utmost to strengthen and make the Family Court work for the benefit of the community, it will work.