

*THE*  
COMPANIONATE  
MARRIAGE

*By*  
JUDGE BEN B. LINDSEY  
& WAINWRIGHT EVANS



BONI & LIVERIGHT · NEW YORK

1927

*Copyright, 1927, by*

BEN B. LINDSEY

First printing, October, 1927

Second printing, October, 1927

Third printing, December, 1927

Fourth printing, December, 1927

Fifth printing, February, 1928

*Printed in the United States of America*

## PREFACE

*Companionate Marriage is legal marriage, with legalized Birth Control, and with the right to divorce by mutual consent for childless couples, usually without payment of alimony.*

*Companionate Marriage is already an established social fact in this country. It is conventionally respectable. Sophisticated people are, without incurring social reproach, everywhere practicing Birth Control and are also obtaining collusive divorce, outside the law, whenever they want it. They will continue the practice, and no amount of prohibitive legislation can stop them.*

*My thought is that we should put an end to this hypocritical pretense, under which we profess one thing and do another; that the Companionate Marriage, now largely monopolized by educated people who understand scientific contraception, and who can employ skilled lawyers in the obtaining of collusive divorces, ought to be made legally and openly available to all people—particularly to the poor and the socially unfit, who need it most.*

*Scientific contraception promises what may develop into the most revolutionary change in human affairs that history has ever recorded. It would be difficult to overstate the economic, the eugenic, the broad social significance, of a discovery which is even today changing marriage in some of its most fundamental aspects. Birth control has brought the Companionate into existence. It has made possible between men and women a relationship which has never before, in the history of the world, been practicable for multitudes of people.*

*To protest against this colossal phenomenon is like trying to stop the tide by scolding it. I suggest that if we rationalize this new thing, and use it intelligently, we may be able to derive from it a degree of social and spiritual power capable of creating for our descendants a better world than we have been able to fashion for our own use and happiness.*

*I am putting this explanation into a preface because I want, so far as possible, to forestall misunderstanding and prejudice on the part of readers who have been told by ill-informed critics of my views that I advocate men and women living together in free love unions, without marriage, and that they should remain in that unmarried status till the birth of a child.*

*Another version is that I advocate "Trial Marriage." What these critics mean by "Trial Marriage," apparently, is a technically legal marriage which is entered with the intention that it shall be, not an enduring union, but merely a temporary sex episode, similar in spirit to what we commonly call the "unmarried union." The parties to a "Trial Marriage" would be marrying, that is to say, strictly on a basis which would emphasize the "trial" element in the union, and create in it a psychology of impermanence. The very name "Trial Marriage" indicates this; and it suggests to those who believe that marriage should be as permanent as possible, the thought that persons so doubtful as that of their ability to remain married, had better not marry in the first place. An unmarried union would suit the needs of such couples better than any sort of legal union, one would think. The fact is that the distinction between "Trial Marriage" and Free Love is nominal. A Trial Marriage is really a Free Love union which avails itself of a legal form. I am not here concerned to criticize it. I merely insist on this identity between Free Love and Trial Marriage; and I further insist that Free Love and Trial Marriage are by no means to be confused with Companionate Marriage.*

*Technically the Companionate and Trial Marriage have certain features in common but one is not the other. Both would normally avail themselves of Birth Control and divorce by mutual consent. Both would place a minimum of obstruction in the way of childless couples wishing a divorce. And both recognize the fact that when men and women marry they can never be perfectly certain that their marriage will turn out to be a permanent success. But there the similarity ends.*

*For the emphasis—the psychological emphasis—is altogether different. All men and women who are sensible and honest know when they marry that there is at least a possibility of failure ahead. But*

*they assume that the chance is remote. They have confidence in their ability to weather all storms and make port. It is their intention to do that, and to make such adjustments as may be necessary to that end. That is marriage. That is the spirit of marriage. It involves the same recognition of risk that goes into trial marriage, but it stoutly proposes to overcome and nullify that risk. It emphatically does not propose to seek divorce the moment the flame of romantic passion begins to cool.*

*Now the trouble with this attitude in ordinary marriage is that not enough account is taken of the risk. If the Trial Marriage psychology puts too much emphasis on the risk, the psychology of traditional marriage bull-headedly ignores it altogether. The result is that couples who make a mistake in their choice of each other find that in getting into marriage they have walked into a trap.*

*There is room for sane compromise between these two extremes. Men and women who enter marriage should be encouraged to do it under conditions that would best insure the success and permanence of the marriage, but which would also afford a line of retreat in case the marriage failed. They should not have children, for instance, till they have been married long enough to be reasonably sure of their ability to carry on together; and they should not have them till they can afford them. This is common sense. It is not Free Love or Trial Marriage at all. It may, as I have indicated, have a technical similarity to Trial Marriage, but legal technicalities are not what make a marriage. What makes a marriage is the spirit and intent of it. And the Companionate as described in this book is genuinely, if not technically, a different thing from Trial Marriage.*

*I do not deny that it would be possible for people to enter the Companionate with a Trial Marriage psychology. But so is it possible for them to enter traditional marriage with a Trial Marriage psychology. Some do it; but they are not many. For such persons the unmarried union, achieved secretly, is easier, and involves less responsibility before society. The Companionate would not invite many such persons. Nor, since it would offer small hope of alimony, would it attract ladies of the "gold-digger" type. It would give Marriage a chance to breathe and live; it would give it room in*

*which to grow; it would give it soil in which to put forth roots; and it would establish it on a better basis than it has yet known.*

*This book, like The Revolt of Modern Youth, has been written in collaboration with Wainwright Evans. Mr. Evans has contributed to this book more than his skill as a writer. He has brought to the work a mind which is strongly in agreement with my views. His whole-hearted sympathy with what I am trying to do has given him a penetrating—almost an instinctive—insight into the deeper implications and meanings of the principles on which I have done my work in Denver; and he has thus made articulate much which might otherwise have gone unsaid. In short, Mr. Evans has put a creative effort into this book which, along with the effort of my own mind, and my own unique fund of experience, has made the whole thing possible. It is a true collaboration. I am grateful for that; and it is a matter of concern to me that the reader should be mindful of it as he reads these pages, and grateful for it too.*

BEN B. LINDSEY.

*The Juvenile and Family Court of Denver.*

*May 30, 1927.*

## CONTENTS

### CHAPTER I. THE REVOLT OF MIDDLE AGE . . . 3

*Drama at Absolute Zero: The Smirking Face of Virtue, 3. The Adolescent "Forties," 4. The bombazine mantle of the Golden Nineties: The candid Younger Generation, 5. Middle Age in pinfeathers: A drama of adult restiveness, 6. Between the Old Order and the New: the coercion of the Folkways, 8. The long arm of the Past, and the grip of Fear and Habit, 9. The difficulty of mixing brains and conduct, 10. Helga gets into trouble, 11. Burton pays the freight: Helga on Conscience, 12. Chastity and thievery: The perils of social innovation, 13. Blue blood, nerves, and short skirts: Bell, Book, and Candle, 15. Defying the ancestral ghosts: A spell of malignant virtue, 17. Stretching stiffened mental fibers: Sex and Gold, 18. A changing attitude toward adultery, 19. Mr. and Mrs. Blank experiment with infidelity: Mrs. Blank's defense, 21.*

### CHAPTER II. OLD DOGS AND NEW TRICKS . . . 32

*A word to the shocked reader: Mr. and Mrs. Blank a symptom, 32. Need for liberty to do the shocking thing: All exploration dangerous, 33. The Blanks took a chance, 34. Dangerous breaks with habit, 34. Car ruts and warmed-over food, 36. The Father Image, the Mother Image, and some physical consequences, 38. Another Triangle, with polygonal complications, 39. Some can, some can't, 41.*

### CHAPTER III. MARRIAGE AND MORALS . . . 43

*Mr. Ewing prefers a blonde: "I want all of you": When Romance and Beauty fled: The unapproachable Diana: A "reverse English" in Happiness: Love and Liking, 43. Mrs. Ewing suspects: Jealousy is fear—and fear is death: The Why of Monogamy: Faking Monogamy: Jumping Fences, 51. Begging the question in morals: "Original Sin," 59. Bertrand Russell on possessive jealousy: Fidelity to one's partner in life, 60. Dr. Archibald Fellowes has two sides to his head: Why his right hand never knows what his left hand is doing, 62.*

*How custom makes anything "right," 65. A bathing suit on the Great White Way: "Forked radishes": Bathing naked in Japan: Clerical defense of the Flapper, 66. The world moves on, 67. A "Temple of Venus" versus the Ford Sedan: Virtue among the Ancients, 68.*

#### CHAPTER IV. THE GREEN EYES OF MARRIAGE . . . 70

*A torn letter and a blood offering to an ancient idol: When Murder is Respectable, 70. "The Unwritten Law": Jealousy one of the "Christian" virtues: "Nature, red of tooth and claw," 71. Murder under tradition, socially sanctioned, homicidal rage, 73. Phyllis and Bert in a cage not even gilded: Bert applies his husbandly authority: Sauce for the goose but not for gander, 74. The Code, before and after marriage, 77. Virtue by mutual coercion: No ethical quality in such conduct, 79. What would happen if they turned each other loose? 81. Esther, Archie, and Bob, an amiable Triangle, 83. The common defense of Jealousy: Erotic avarice, on \$200 a month, 84. "Now over in France—!": The irresponsible Henri, the long-suffering Annette, and the unjealous bride, 87. When to Bundle was a virtue, 89. Stanley Hubbell solves a personal problem and wins a wife: Will Carson and a hip flask: Tom Ryan's automobile ride: Carson's story, 91. Some conclusions, 95. Triangular relationships make some persons happy: Many minds and many needs in marriage, 97. The monogamic ideal a fruit of culture, 99.*

#### CHAPTER V. MARRIAGE ON TRIAL . . . . . 101

*The Story of the Phantom Lover: Concerning some social workers and the "scientific data": Sex misunderstandings and divorce: The other woman: Mr. Smith tells his story: Minnie: Richard the Ghost: A husband in a hurry: Enter the Psychiatrist, 101. Poverty plus children, 112. A baby the first year, 113. Debt, not enough to eat, rent overdue—signposts of the divorce court, 114. Mr. and Mrs. Charles Hill agree—that they want a divorce: A chaste female: Her story: The carnalities of Mr. Hill: The morals of abstinence: That first kiss: "What is a 'Sweetie'?" : Mrs. Hill, perfect and complete: Mr. Hill tells his side: Millie: The beloved blackmailer: "So damn' good—and so dumb": Millie on petting: Millie prescribes for herself: Concerning Millie's legs, 115. Millie's Codes: When Youth and Age put their heads together: Discrimination in Love, 131. Sex divorced from affection often insatiable: Two kinds of marriage, 132. Millie's hypothetical liaison, 134. Transforming liaisons into marriages, 135.*



*Millie, John, Birth Control, and Society, 137. The Companionate and the Family, 138. Trial Marriage: What it is: How it differs from the Companionate: If your son or daughter could have this safeguard, 139.*

## CHAPTER VI. THE CHEMISTRY OF LOVE . . . 142

*Inez and Fred find wedlock is not fool-proof: How an annulment became a marriage: What is "sin"? The Purity myth, 142. If they had had a legal Companionate, 148. How we might have a Companionate that would work: The danger in free love unions, 151. Non-procreative marriage a check on sexual lawlessness, 154. Sex at its best is a spiritual hunger, 155. Katherine and George; what marriage did to them: The lady who never had been raped: "Never mind, Honey; we can get married again," 156. Too much emphasis on sex: Marriage not adequate as we have it, 158. Hortense hires a "detectuff": He detects Hattie the Home Breaker: Hattie wanted another scalp: The Green-Eyed Monster again: New light on onions, tomatoes, and cucumbers: Hortense discovers Peter: Herbert's lament: A guy with a real car, 159. Marriage and the sex hormones, 165. "Better to marry than to burn," 166. The girl with a gilded head: Carl preferred brunettes: "So's your legs; walk," 167. The choice between regular marriage as we have it, and irregular liaisons as we have them, a choice of evils, 168.*

## CHAPTER VII. THE COMPANIONATE: WHAT IT IS 170

*A collegiate wedding: Student marriages: The "free love" issue again: "Suppose they have a baby": Enter, Birth Control: The House of Human Welfare, 170. She disapproved of the Companionate; but she had no babies: "We proposed to stick": Legalizing the Companionate as it is now practiced: Hypocrisy and 100 Per Centism: Bootleg Birth Control: If the obscenity law were really enforced: The Rota annulments: Tweedledum, tweedledee and theologee: Divorce by mutual consent: Natural selection that no longer selects: Time to check population growth: The problem of venereal disease: The emotional ties of marriage: Divorce usually a last resort: The Companionate no road to promiscuity: A divorce by collusion: "Too young to marry," 176. The Companionate for college students, 196. The Companionate as practiced by the daughter of a clerical denouncer: Self-control versus birth control, 198. Splitting the ears of groundlings: "Of course, Mother," 199. A university president and a letter, 201. A couple at Harvard: Birth control and the law, 202. Birth control instruction*

*before marriage, 203. Another marital tangle, 204. "Holy matrimony": When "religion" becomes a virulent social disease, 206. A minister on the Companionate in practice, 207. Marriage in New York legal without benefit of clergy or of judge, 208. A letter from Bertrand Russell, 209.*

## CHAPTER VIII. BIRTH CONTROL AND THE COMPANIONATE . . . . . 211

*A little truth between friends: Snipping red tape—and profits: The Klergy and the Klan: Divorce marked down to \$12.50: The man who "wanted a woman," 211. Opposition from dullards and ax-grinders: The price on my scalp: "The Beast," 218. The clergy and the established order: What happened to one devotee of the truth: Authoritarianism, 220. Sex in the universities: Stop the babies, but don't mention it: Making the Serpent of Logic swallow its own tail, 221. Katherine Bement Davis on Birth Control: The Roman Catholic stand on Birth Control: Superstitious fear of the "unnatural," 223. Voluntary abstinence: The more or less mythical "safe period": Slavery for American women in the "continence" theory: Sex pleasure a "sin": Mind and matter, are they opposite or identical?: A "fallen race," 225. The function of the Imagination in Sex: Sex as a spiritual experience, 227. Continence practiced in marriage by the undersexed: A true legend from Sleepy Hollow, 229. Abortion often regarded as moral; birth control as immoral: Respectability in Sleepy Hollow: Clerical fanatics and Bible idolaters, 230. J. B. S. Haldane on Eugenics as ethical conduct: Biological motives in marriage: Men hungry for real religion refused them by the church are finding it in scientific truth, 232. A letter: Four babies in six years and another on the way: Medical and clerical ignorance: "Meddling" with a natural function, 233. Write to the Birth Control League for information: Contraceptive technique, 237. Dr. Fishbein on Birth Control: Birth control methods not perfect, but practicable: Ignorance of physicians: Birth control clinics being established, 238. Contraceptive information for the unmarried as well as for the married: Mid-Victorianism in the Birth Control League, 242.*

## CHAPTER IX. LEGISLATING FOR THE COMPANIONATE . . . . . 244

*Three laws that would legalize and establish the Companionate Marriage, 244. a. Legalized birth control; b. Divorce by mutual consent for childless couples; c. No alimony: Economic independence in*

*childless marriage*, 245. *The Companionate and the Family*, 247. *A lawyer's letter*, 248. *California considers a Companionate Law: Medical examination before marriage: Other possible features*, 248. *Two clerical critics of the Companionate*, 250. "They would quit if they didn't like it": And why shouldn't they?: Which is worse, an Infallible Pope or an Infallible Book?: Jesus and the customs of his day, 251. "Authority," 253. "Divorce by mutual consent" defined: The tragedy of unrequited love, 254. *A tragic letter*: "It might have been," 255. *Alimony and property rights in divorce: The passing of "the gold digger": Discretion of the court*, 257. The instance of a man ruined by unjust alimony: *Alimony in Family marriage*, 258. The rights of children first—parents second, 260. *Population at the saturation point: The ideal marriage a union of free personalities*, 261. *Growing a marriage as the oak grows*, 263.

## CHAPTER X. THE SPIRIT OF MONOGAMY . . . 265

*Mrs. Gardiner tries her wings: Cold ashes of romance: Transplantation deadly*, 265. *For monogamy: Prevention of divorce: Liberalizing the sex code: Divorce a form of polygamy*, 267. *Puritanical morality and a restricted sex code the chief cause of the instability of marriage and the prevalence of divorce: Christian conception of sex inferior to the pagan*, 269. *Keyserling's "Book of Marriage": The constructive values of marriage*, 271. *Marriage the creation of a new entity: The difference of potential between men and women: The Positive and the Negative of Sex*, 272. *Happiness in marriage must be created: It is not spontaneously generated: A lifetime job to do this: Divorce breaks up the process: Must have other outlets for the sex impulse*, 273. The "Christian" conception of marriage prolific of divorce, 274. *Difference between Monogamy and Polygamy*, 275. *Physical "infidelity" not necessarily polygamous: Polygamy a state of mind, a way of thought*, 276. *Sex relations have varying social significance: Physical loyalty in marriage conditions by changing views: The "Chastity" that covers a multitude of sins far worse than adultery*, 277. *Havelock Ellis on the "Future of Marriage": His account of the Protestant and Roman Catholic conceptions of marriage—both of them false: Romantic fictions of marriage: Keyserling again: Jealousy*, 279.

## CHAPTER XI. CHASTITY: WHAT IT IS NOT . . . 283

*The popular virtue: White, Blonde, Nordic, Protestant, and Feminine: Conventional chastity a hot-bed for the growth of sex obsessions*, 283. *A "God-fearing home": The Fall of Rome, an old chestnut*

among "purity" fanatics: Devil worship, 285. "Rain": The end of a missionary who dreamed of "mountains in Nebraska," 287. My story of "Rain": The marriage of Sarah Nichols: The Rev. Joseph Nichols in action: How he fell from Grace and how, learning from that, he saw the light, 288. Mr. Nichols becomes a Knight of the Ku Klux Klan, 299. Intolerance: The Klan hysteria: Nichols saves the day by 35 Klan votes, 301. Chastity and the purity veneer: Chastity a state of mind: The inside of the cup, 304. The relation of real chastity to continence—nil, 305. Chastity, freedom, and the educated conscience, 307. A parent speaks of his daughter: The problem of the hormones: Keeping youngsters busy: Partial sublimation: Too much self-control: Sitting on ourselves: Laying the cards on the table in dealing with the young, 308.

## CHAPTER XII. SOME OBSESSIONS: THEIR CAUSE

AND CURE . . . . . 314

Contraception widely practiced by unmarried youth, 314. Caroline, 314. The lost vanity case, 316. A mountain party, 317. Blinders, 317. American hoggishness abroad, 319. A gubernatorial candidate and the Demon Rum, 320. The spurious freedom phase of Sex, 322. My creed, 323. The moral man: To follow tradition blindly is immoral, 324. "Thou shalt not commit adultery": "Virtue": Pulpit tricks, 325. Readjusting the claims of morality, 327. What Jesus said about adultery: His human inconsistencies, 328. What He would probably say about it now: Why they crucified Him, 329.

## CHAPTER XIII. THE CLERGY AND CURRENT

MORALITY . . . . . 331

A Bible Class teacher gets a jolt: Ways past finding out: The æsthetics of conduct: The shield of ignorance: The dwindling of the Old Guard: The ethical values of Fear: Machinery dedicated to a pagan goddess: Two boys, one in France, the other "protected" at home: The Y. M. C. A. account of it: The morals of Ethel, Anne, and Mabel, 331. Rationalism versus Dogmatism: Hiding behind the skirts of the Folkways, 345. Organizations protect their own: The Judge with a cellarful of smuggled booze sentences a woman with a lone pint to prison, 347. The Rev. Jacob Fisk wants my scalp: "Law enforcement at all cost, irrespective of persons": He finds that law enforcement begins at home, and that he'd better let it alone: The Rev. Asa Jones: Mr. Karl Karson of the Klan: A reformer dives for

*the door: What law enforcement really amounts to: Nullification automatically eliminates every law the people don't want, 348. A talk with Luther Burbank: The natural, the beautiful, and the good, 362.*

# CHAPTER XIV. THE CASE AGAINST UNIFORM MARRIAGE AND DIVORCE . . . . . 364

*What makes a divorce-proof home: Constructive readjustments often made possible by divorce: People divorce usually in order to remarry, 364. A Companionate dissolved by mutual consent: Three happy marriages that resulted from two divorces, 364. They sought a civilized remedy by breaking an uncivilized law: Dogmatic theology a destroyer of the rational faculty, 366. People should have divorce because they want it: Divorce prohibition makes for lawbreaking: The inundation of restrictive legislation, 368. The resistance of Congress: Purpose of the proposed legislation is restrictive and meddling: Changes in the Folkways have the validity of a natural law, 370. Capper Bill involves constitutional amendment: Married in one state, single in another: Proposed limitation of divorce to five grounds a tyrannous restriction, 371. Prohibition the deadly parallel—the more restrictive and narrow the legislation the more easily it can be passed, 373. The proposed five grounds of divorce, 375. A death grip on another department of personal conduct, 377. The Companionate would lessen divorce: Capper Bill doomed to nullification if it should pass, 378. Three months' residence necessary for Nevada divorce: Why not make it a week? 380. Need for varying experimentation in different states, 381. The growth and change of custom: Old men, Priests, Shamans, and Old Crones, 382. Jonah and the Whale standards of sociology: Anti-evolution in federal law the next step, 383. Confusion resulting from differences of state law, 385. "Full faith and credit clause" held by U. S. Supreme Court not applicable in Divorce: The famous Haddock case, 385. Mrs. Kelsey, who was nobody's wife, though twice married, 386. Differences of law reconcilable if the state courts would get rid of cold legalism and would play fair, 388. Justice can't be had from multiple laws mechanically and technically enforced: A theocracy ruled by the Great God DON'T, 389.*

# CHAPTER XV. OUR UNWEEDED GARDEN OF EDEN 391

*The radicalism of this book will be the conservatism of to-morrow: The ultimate cowardice: Jellyfish drifting on the flood of change, 391. Luther Burbank on rational horticulture: How Burbank would have educated children in the Art of Living: Human life liberated by*

*science: Burbank and the depths within: A glass of cold water in the desert: "The Harvest of the Years," 391. An unweeded Garden of Eden: Yokels who never descended from monkeys, 393. When biology has quickened the scientific imagination of the race: What science may create in human conduct: Breeding genius and leadership intensively: Drunk with the Wine of the Wrath of God: What we may learn, 394. The minimum of change necessary to decent and fruitful living: The right of everybody to be well born, strong, intelligent, and reasonably happy: Getting what is good because we have learned really to desire it: These are the foothills of achievement: Beyond lie the Mountains, 395.*

# **THE COMPANIONATE MARRIAGE**





# THE COMPANIONATE MARRIAGE

## CHAPTER I

### THE REVOLT OF MIDDLE AGE

#### I.

DURING a recent trip to New York I went to a notorious play which the "play jury" a few weeks later threatened to discipline.

It was crude melodrama. It was composed of a raw title, raw sex situations, and mediocre acting. It served no valid artistic end; it was there to make money by going as far in the way of bad taste passing for "truth" as the police would permit and the public tolerate.

The truth was that the play was a cheap imitation, by incompetent persons, of certain other excellent plays which dealt with a similar theme gracefully and with good taste, and which had thus met with legitimate success, because they were enlightening, and because they gave people who saw them a better insight into themselves and into other persons.

This play stood at the absolute zero of vapidty. Professing to reveal and illuminate the human heart, it sold a gold brick to people so badly educated in the values of life that they couldn't spot the fake. It had no genuine heights and depths to justify it.

Nevertheless the play packed a great thrill for the audience. This was particularly true in the second act, when there came a scene in which it really looked as if the palpitating man and woman behind the footlights would forget that the footlights were lighted and the shades not drawn. But fortunately there was a room in the rear of the stage. You could see, through the open door of it, that it contained a bed.