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## HAS MY CHECK ARRIVED?

CHAS. C. MAAS\*

THE question which serves as the title of this article, "Has my check arrived?" is the one most frequently answered by the alimony clerk in the office of the Clerk of the Circuit Court. It serves as a constant spur in the collection of the huge amounts of alimony.

The total amount of alimony collected for the year 1928 was \$740,372.54. More money was collected in October than in any other month; the amount collected was \$70,349. September 5 proved to be the most active day of the year; the amount collected was \$8,891.79. The largest amount of alimony paid by any one person is \$583.33 per month; the smallest amount is \$1.00 per year. Of the 2,600 clients receiving alimony four are men. One man has been regularly paid \$100.00 per month for more than ten years and two are receiving \$10.00 per week. The remaining one receives eight dollars per week.

Every day except the holidays is pay day in the alimony department of the office of the Clerk of the Circuit Court. Business is conducted unfalteringly every day. Approximately one hundred and eighty payments are made on every one of the three hundred and ten working days of the year. The question underlying each transaction is, "Has my check arrived?"

It is not uncommon for a check to become lost in the mail. Sometimes this is due to a mistake of address made by the Clerk of the Circuit Court, but more frequently it is traceable to the fact that a wrong address has been given to the clerk. Peculiar circumstances often furnish a background for a report that a check has not been received. Not infrequent is the case in which the check has been stolen from the mail and cashed by some person other than the one to whom it was addressed. More frequent, however, is the case of the person receiving the check after having made a complaint and cashing the check without notifying the Clerk of its receipt. There have been cases in which the client cashed the check and then reported it lost in hope that another check for the same payment might be forthcoming. Such operations are, of course, immediately terminated by a severe reprimand of the wrongdoer.

One of several outstanding cases of checks being stolen from the mail was the case of a needy, north-side family in the city of Milwaukee. The woman who was to have received the check was the mother of several children, among whom was a daughter twenty-one

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years of age. The mother reported that she had not received her usual check for \$12.00. After a summary investigation it was discovered that the check had been cashed at a north side grocery store. An inspection of the check proved that whoever had forged this signature must have been very familiar with the signature of the proper payee. The forgery was a very clever one. To the dismay of the mother the logical conclusion of the Clerk, that the daughter was the forger, was finally substantiated and the mystery completely dispelled.

In another case a check was stolen from a needy mother of four children. After a bit of investigation suspicion was focused upon a young woman to whom the check had been delivered by the mail-carrier. This case required personal investigation, and the Clerk of the Circuit Court took upon himself the responsibility of doing this investigating. After several unsuccessful attempts to see the young lady who was under suspicion he was finally successful. In this personal interview he was able to force a confession from the young woman, who stated that she had committed her wrongful act because the funds were needed by her for the bare necessities of life. This case was finally unravelled and justice for all was established. In all cases where it is at all possible, the Clerk of the Circuit Court will endeavor to find work for the needy and give whatever material aid as possible.

Some cases are very pitiful. Where a careless member of the "alimony club" for any reason whatsoever fails to pay promptly and fully, the office of the Clerk of the Circuit Court will avail itself of every means whereby the fault can be corrected. Usually a letter of warning is written showing the precise amount that the party is in arrears, and informing him that unless he makes immediate arrangements for the payment of this sum he will be served with papers for contempt of court. Usually this method will immediately correct the situation, but occasionally the party will persist in remaining in default. If there is some good reason for this default the court will generally be lenient. This is the situation when a man is ill, and for this reason cannot secure employment. If the man is able-bodied and well the Court will compel him either to pay the amount due or go to the House of Correction for contempt of court.

The Clerk of the Circuit Court is so accustomed to listening to troubles in the cases of non-payment of alimony that he has become hardened. No fair complaint, however, is left without attention.

There have been several cases where women have come in voluntarily and made the statement that they no longer desired alimony. These cases are exceptional, however.

It happens occasionally that a former man and wife will meet in

the office of the Clerk. The feeling that exists between them at these times is seldom one of friendship. Exceptional cases in which the parties walked from the office chatting as old friends have been noted.

The Clerk of the Circuit Court has no authority to act in cases of abandonment or desertion. His authority extends no further than the enforcement of alimony decrees. When a man deliberately refuses to pay and evades the service of papers the case is referred to Mr. George Elsner, Superintendent of the Outdoor Relief Office and the District Attorney. Abandonment or desertion charges are then brought against the man.

When a party paying alimony under a divorce decree issued in Wisconsin moves from the state the jurisdiction of the Clerk of the Circuit Court is at an end unless there were children as a result of the union. Cases have come before the attention of the Clerk in which irate ex-wives have written abusive or threatening letters to their divorced husbands in other jurisdictions. In these cases the husbands were still paying alimony, even though they had had no children, but were in default for some fraction of the entire amount. The husband would consult an attorney and become informed of the fact that he could not be forced to pay any alimony at all. The woman as a result of her indiscretion would lose all of her alimony.

Prior to 1913 women whose divorced husbands were in default in the payment of alimony had to employ an attorney and bring their divorced husband into court through action of their own. The Clerk of the Circuit Court had no authority under the Court to apprehend the delinquent ex-husband. The author, who was then, as now, the Clerk of the Circuit Court saw the difficulty which this situation placed upon the party who was trying to collect the alimony. After this party had paid attorney fees there was frequently very little of the much needed alimony left. The author brought this matter to the attention of then Circuit Judge Franz C. Eschweiler. Judge Eschweiler, now very widely known as one of Wisconsin's honored justices of the State Supreme Court and as Professor of Torts at the Marquette University Law School, quickly drew up an affidavit which authorized the Clerk to cite the men into Court for contempt. The first year that the Court was conducted under this procedure the Clerk collected approximately sixty thousand dollars. The plan proved so successful that it was widely adopted by courts of similar jurisdiction throughout the United States.