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OF THE
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WITH APPENDICES

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bership, to receive suggestions arising from the use of these Tables, and to report to the next General Convention.

(5) *Resolved*: the House of . . . concurring, That the Joint Commission on the Lectionary be authorized to correct typographical errors in the Tables presented, before the same are published for distribution.

T. W. HARRIS, *Secretary*.

APPENDIX XII.

REPORT OF THE JOINT COMMISSION ON LEGISLATION ON MATTERS RELATING TO HOLY MATRIMONY

Report adopted November 10, 1915, at a meeting held in New York City, of the Joint Commission of five Bishops, five Presbyters and five Laymen appointed "To report to the next General Convention suitable legislation whereby the discipline of this Church and other matters relating to Holy Matrimony shall be plainly set forth." (Journal p. 93.)

To the Commission were also referred various proposals that had been introduced into the Convention:

- Concerning a Federal Law of Marriage and Divorce, pp. 161-245.
- An International Law between the United States and Great Britain, p. 245.
- The Publication of Banns, p. 276.
- The *Ne Temere* Decree, p. 245.
- Eugenics, p. 245.

The following were named as members of the Commission:

The Bishops of West Virginia, North Carolina, Connecticut, Chicago and Long Island;

The Reverend Doctors Wrigley, Sumner, Leffingwell, Marquis and Parks;

Messrs. Wheeler, Niles, Morehouse, Watts and Shepard.

Upon the resignation of the Bishops of West Virginia and Connecticut, the Bishops of Vermont and Lexington were appointed in their places. After the Consecration of Dr. Sumner as Bishop of Oregon he also resigned, and the Reverend Doctor McIlvaine, of Pittsburg, was appointed in his stead.

With a view to the plain setting forth of the discipline of the Church relating to Holy Matrimony, as well as to the consideration of the various questions referred to the Commission, it was thought best first to agree on certain principles which should regulate any legislation concerning marriage, and the following Statement of Principles, after full discussion, was approved by the Commission:

1. (*The Law of Marriage.*)

Marriage, according to God's design, to which we are recalled by our Lord Jesus Christ, is the life-long union of one man with one woman, to the exclusion of all others on either side.

2. (*The Purposes of Marriage.*)

Marriage is intended for the mutual companionship and support of husband and wife in good and evil estate; for the procreation of children; and for their nurture and training. To ignore or defeat any of these purposes is a sinful violation of God's institution.

3. (*The Essence of Marriage.*)

The essence of marriage consists in the consent of the parties to live permanently one with another as husband and wife. Civil law

requires for purposes of legal recognition that this consent shall be expressed under certain conditions.

The Christian Church solemnizes a marriage with appropriate rites of benediction.

4. (*Conditions of Marriage.*)

The conditions for a lawful marriage laid down by the civil authority must be complied with before the Church may solemnize a marriage.

The Church may impose further conditions for its benediction and sanction.

The Commission having considered the special questions referred to it, agreed on the following conclusions:

(a) In the judgment of your Commission it is not desirable that the General Convention should pronounce an opinion as to the comparative advantages of State or Federal legislation on the subject of Marriage and Divorce.

(b) It is obvious that until there is, through whatever means, uniform legislation throughout our country, there can be no international law between the United States and Great Britain or any other country.

(c) An examination of the *Ne Temere* decree shows that it ought to be regarded only as a matter of domestic legislation within the Roman Catholic Church for its own members.

This has been judicially interpreted to be the case in the Supreme Court of the Province of Quebec, where (Feb. 22, 1912) Justice Charbonneau declared:

"There is not affirmed in the decree any other authority than a spiritual one over the members of the Roman Catholic Church."

For this Church to protest, as has been suggested, against the decree, would be most unwise, as it is uncalled for. Such a course would be contrary to the claim that we make for ourselves and for others, that it is entirely competent for any religious body to make regulations concerning marriage for its own members, in harmony with but in addition to those which the State imposes upon all its citizens, and to withhold religious privileges from such of its members as transgress those regulations.

At the same time the risks involved in mixed marriages should be pointed out, and persons should be urged to have a clear understanding of what is demanded of them in entering on any such marriage. The responsibility of parents for the training of their children must not lightly be surrendered, nor a promise made to have them brought up in a religious system which they cannot themselves accept. Any confusion should be carefully guarded against, between, on the one hand, the lawfulness of a marriage with its binding effect and the legitimacy of the offspring, and, on the other, the sanction which a religious body may accord to it for ecclesiastical purposes.

(d) The publication of Banns of Marriage, which some propose to make of universal obligation, would in the judgment of the Commission be of little value in our circumstances. The custom, like that of affixing tax papers and other notices to the church door, belonged to a time when the population of a given district would be generally gathered in one Church, and at a particular service; thus under these conditions the announcement in church of an intended marriage, and the challenge to allege any impediment thereto, would ensure the greatest publicity. This would in no wise be now the result.

But a clergyman may well refuse to solemnize a marriage without receiving such notice as will give him sufficient time to make such inquiries as he may deem necessary.

(e) The subject of Eugenics in reference to marriage is beset with so many difficulties, legal, medical, moral and religious, that the Commission is not prepared to recommend any legislation by the Church on the subject.

The whole subject of marriage, with its responsibilities and obligations, should be made a matter for careful instruction by the clergy much more frequently than is now common. The teaching of true marriage is one of the best defences against divorce and other evils which now afflict and threaten the nation.

In such instruction the distinction must be made clear between marriages which are allowed by the civil law, representing all that can be imposed upon people of varying and of no religious beliefs, and marriages which can be sanctioned and blessed by the Church as conformable to God's will and the teaching of Our Lord Jesus Christ.

At the same time care must be taken to insist on the fact that true marriage is not a peculiar institution of the Christian Church. The teaching of our Lord recalls men and women to God's design, and His grace will enable them to rise up thereto; but marriage contracted without Christian rites must be regarded as sacred, and the contracting parties led to recognize the dignity and obligations of the estate on which they have entered.

The refusal of the Church to bless and solemnize a marriage need not be followed by a permanent exclusion from the Sacraments.

Consideration must be had of the good faith in which a marriage may have been entered on, in ignorance of the Church's law, and while not subject to the Church's discipline; and of the practical impossibility in many cases, without greater wrong, of the breaking up of a family. In some such cases there must be a power of discretion, very carefully exercised, to admit or readmit persons to the Sacraments. This power must rest with the Minister of the congregation and the Bishop of the Diocese, as the chief minister of discipline.

With this provision the Commission feels justified in recommending an entire refusal to solemnize with the Church's blessing the marriage of any person who has a divorced partner still living. The doubtfulness of the supposed exception in the Gospel according to St. Matthew, the extreme difficulty of determining the innocence of either party to a divorce, and of maintaining the disciplinary safeguards of our existing Canon, and the confusion which these introduce into the Church's law, make it clear, in the judgment of the Commission, that the wise course is to refuse the Church's rites of benediction upon any marriage after divorce, during the lifetime of the other party to the original marriage.

The annulment of a marriage, on the ground that, by reason of an existing impediment, fraud, or duress, it was void, must be distinguished from a divorce from any cause arising after marriage; as of course must a divorce, which claims to dissolve the bond of marriage, be distinguished from a legal separation from bed and board.

With regard to impediments to marriage arising from existing relationship, the Commission is unable, in view of the many difficult problems attending a Table of Prohibited Degrees, to recommend special legislation on the subject. The civil law in all our States forbids the marriage of persons having a common parent, and of those related in the direct ascending or descending line, and in most States marriages between a man and his niece or a woman and her nephew are forbidden. All civil prohibitions are, of course, to be observed. The purity and freedom of family intercourse, as well as physiological considerations, require that marriage should not be thought of within near degrees of relationship.

In accordance with these principles the Commission recommends the amendment of Canon 40, *Of the Solemnization of Matrimony*, by the substitution of the following sections for the existing § III. and § IV.

§ III. [i.] No marriage shall be solemnized in this Church between parties either of whom has a husband or wife still living, who has been divorced for any cause arising after marriage.

[ii.] Where it is claimed that the divorce has been granted for causes arising before the marriage, satisfactory evidence touching the facts in the case, including a copy of the Court's Decree and record, if practicable, with proof that the defendant was personally served, or appeared in the action, shall be laid before the Ecclesiastical Authority, who shall thereupon take counsel with his Chancellor or other legal adviser. Where this claim is established by the record, the Ecclesiastical Authority shall declare in writing that such a Divorce, being in fact a Decree of Annulment, is no bar to the marriage of either party.

§ IV. The admission to the Sacraments of persons who have entered on a marriage not in accordance with the laws of this Church, shall be referred by the Minister of the Congregation to the Bishop of the Diocese, whose decision in the matter shall be final.

All of which is respectfully submitted.

JOS. BLOUNT CHESHIRE, *Chairman*.
 ARTHUR C. A. HALL.
 FREDERICK BURGESS.
 CHAS. P. ANDERSON.
 LEWIS W. BURTON.*
 LEIGHTON PARKS.
 CHARLES F. J. WRIGLEY, *Secretary*.
 JAS. H. McILVAINE.
 C. W. LEFFINGWELL.†
 S. S. MARQUIS.
 EVERETT P. WHEELER.
 EDW'D C. NILES.
 FREDERIC C. MOREHOUSE.
 CHARLES E. SHEPARD.
 LEGH R. WATTS.

* "I regret that in signing the above report I have to except from my approval the proposed amendments (i) and (ii) to Section III. of Canon 40, and so much of the enunciation of principles in the body of the report as is made to serve as foundation for these proposed amendments to Section III."

† Dissenting from paragraph (a) of Conclusions.

APPENDIX XIII.

REPORT OF THE JOINT COMMISSION ON ARMY AND NAVY CHAPLAINS

The Commission appointed by the last General Convention "to take such action as they deem best and most effective (a) to effect an increase in the number of army and navy chaplains, (b) to secure from Congress appropriations for suitable places of worship, etc.," respectfully reports as follows:

The Commission decided to concentrate its efforts during these three years upon the increase of the number of Navy chaplains and upon such changes in the law as would enable the Secretary of the Navy to select and appoint chaplains with greater assurance of obtaining the best men