

**JOURNAL**  
**OF THE**  
**GENERAL CONVENTION**

**OF THE**  
**Protestant Episcopal Church**

**IN THE UNITED STATES OF AMERICA**

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the other hand, has a lifelong vocation. She can find within the Office an unlimited opportunity for service, and your Commission would again emphasize the fact that no ministry to the needs of humanity can be complete that does not call for both men and women, each exercising special gifts, faculties and powers with which God has endowed them. They are not alike and never can be alike. One is not superior to the other but their functions differ. It is the conviction of your Commission that the Office for the setting apart of a deaconess should occupy the same position in the Ordinal as the Office for the ordination of a Deacon. In no other way can the principle be maintained that the Church has a ministry of women apostolic in its authority and supported by the deliberate intention of the whole Church acting through the Bishop as its instrument.

Your Commission notes with interest and encouragement that the Convention of the Diocese of Chicago held February 3, 1931, passed a resolution which is to be laid before General Convention, respectfully petitioning for action both in defining the status of deaconesses in accordance with the declarations of the Lambeth Conference and in the inauguration of an adequate pension system for members of the Order. This is a hopeful sign of intelligent and practical interest which your Commission heartily welcomes. The Commission submits the three appended resolutions:

1. *Resolved:* The House of Deputies concurring, That the General Convention hereby affirms its acceptance of the Declaration of the Lambeth Conference of 1930—Resolution 67—“That the Order of Deaconess is for women the one and only Order of the Ministry which we can recommend our Branch of the Catholic Church to recognize and use.”
2. *Resolved:* The House of Deputies concurring, That the General Convention hereby requests the Church Pension Fund to take all legal and financial steps necessary to secure pensions for the Deaconesses of the Church.
3. *Resolved:* The House of Deputies concurring, That the Joint Commission be continued and that its title be changed to the Commission on the Work of Deaconesses.

PHILIP M. RHINELANDER, *Chairman.*

CARROLL M. DAVIS, *Secretary.*

## APPENDIX XI.

### REPORT OF THE JOINT COMMISSION ON MARRIAGE AND DIVORCE

In view of the steadily increasing divorce evil in the United States the Convention at New Orleans in 1925 appointed a Commission to study the whole problem of divorce, its conditions and causes. A report presented to the Washington Convention in 1928 aimed to set forth the general situation in regard to divorce, together with various causes and proposed remedies. It did not offer any solution except such as might be found along the lines of character training. The report was accepted by the Convention and the following resolution adopted:

"Resolved, the House of .....concurring, That this Commission be continued with the understanding that it co-operate with other agencies to secure a scientific study of the whole subject of marriage and divorce, including the study of the moral and religious factors; and that the Commission study and report to the next Convention, first on the ecclesiastical and Canon law of this Church in relation to marriage, divorce, and the annulment of marriage, and second, on the relation between civil and religious marriage, and for the purpose of making these special studies the Commission have power to add to its number."

A careful study has been made of the ecclesiastical and Canon law of the Church, especially in relation to marriage, divorce and the annulment of marriage. In order to undertake this specific task it was necessary to undertake a study of the ancient Canon law as a whole.\* In accordance with the obvious expectation of the Convention your Commission has embodied its findings in the form of a proposed amendment to our Canon on the subject of Holy Matrimony.

Several new members have been added to the Commission especially with the view of making it representative of various schools of thought in the Church. Many meetings have been held at which most of the members have been present. The meetings have been held in New York and the regular attendance of those who live farthest away has been peculiarly significant. While there was a marked difference of opinion on certain phases of the subject nevertheless there has been an obvious desire on the part of all to attain results that should be of the greatest value to the Church and to society. All the members of the Commission approved of the first six sections of the proposed Canon. The difference of opinion came in connection with Section VII. This section received the approval of eleven members of the Commission: The Rt. Rev. Herman Page, chairman; Rev. Percy G. Kammerer, Ph.D., secretary; Rt. Rev. William J. Scarlett, LL.D., the Rev. Frank H. Nelson, D.D., Very Rev. Frederick C. Grant, D.D., Rt. Rev. Cameron J. Davis, D.D., Professor Joseph H. Beale, Mr. George W. Wickersham, Mr. John M. Glenn, Mr. Roland S. Morris, Mr. Origen S. Seymour.

The Minority Report was made by the Rt. Rev. Paul Matthews, D.D., the Rev. Caleb R. Stetson, D.D., the Rev. Howard C. Robbins, D.D.

We would first consider Section III dealing with the annulment of marriage. Throughout the Church there has always been a general recognition of the fact that certain marriages are not lawful. Indeed, this principle is definitely enunciated in the Marriage Service, which declares that any marriage contrary to God's word is not lawful; and our present Canon implies the existence of causes for divorce existing before marriage. Therefore your Commission has drawn up a definite list of *Impediments* to a valid marriage on the basis of which the ecclesiastical authority may declare a marriage null. These impediments have long been recognized by the Canon law of the Church and are recognized by the law of nearly all of our States. While there are doubtless some who approach this whole matter of annulment with more or less apprehension, nevertheless we believe, for several reasons, that it is highly important that this Church should adopt some such statement in regard to the impediments to marriage.

\*Note 2.

First, such a statement seems fair to all concerned. While there is a general recognition of the fact that a marriage may be unlawful, and therefore annulled, the whole subject of nullity has received so little attention in this Church that it is little understood by either Bishops, clergymen or laymen. While certain Bishops have taken the responsibility of deciding as to the annulment of marriages, it may safely be said that most Bishops have entirely ignored the subject and confined their judgments to divorces granted for adultery.

There is another reason, however, which makes the definition of nullity of far greater importance, namely the fact that our present Canon may reasonably be construed as leaving the whole matter of judgment in regard to the annulment of marriages in the hands of the individual clergyman. The first part of Canon 43, Section III, now reads as follows:

"No Minister, knowingly after due inquiry shall solemnize the marriage of any person who has been or is the husband or the wife of any other person then living, from whom he or she has been divorced for any cause *arising after marriage*. Nor shall it be lawful for any member of this Church to enter upon a marriage when either of the contracting parties is the husband or the wife of any other person then living from whom he or she has been divorced for any cause *arising after marriage*."\*

While in accordance with the Canon law of the Anglican Church and the tradition of this Church such marital problems have usually been referred to the Bishop, nevertheless your Commission would emphatically remind the Convention that in accordance with our present Canon law no right of judgment is explicitly given to the Bishop except in cases where the divorce has been granted for adultery. In view of the fact that many members of this Church claim that the ancient Canon law of the Anglican Church has not been binding upon this Church since the American Revolution and that the only binding law is that set forth in our own Canons, it is clear that any clergyman may with reason constitute himself a judge as to grounds on which a marriage may be annulled. A generation ago it was almost universally assumed that practically all grounds on which divorce was granted were grounds arising after marriage, but the amazing increase of knowledge in psychology and psychiatry has made it reasonably clear that many of the causes for divorce are character causes, which existed long before marriage took place. Many a fine girl has married some attractive youth addicted to drink, believing that she could reform him, but her efforts were foredoomed to failure. It is generally understood that a large percentage of sexual maladjustments, which are such a prolific cause of marital unhappiness, are due to early childhood training or lack of training. Any clergyman who declared null and void marriages of this sort would doubtless gain the support of psychiatrists and social workers.

There are also questions as to mixed marriages which the Church of Rome recognizes as a ground for annulment, as it does the marriage of the unbaptized. A clergyman who declared such marriages null and void would have behind him the tradition of long Catholic practice, and in our Church there are clergymen who feel that this Church should marry only those who have been baptized.

While the Church must repose great confidence in its clergymen, nevertheless it must be admitted that many of them are not judicially

\*Note 1.

minded and that their experience has been limited. Therefore, under the circumstances, it seems desirable that we should clearly define the grounds on which a marriage may be declared null and void.

The members of your Commission are unanimously agreed in regard to this Section on nullity, and in the criticisms received there has been a general approval of our effort to define the impediments of marriage. Because of considerable criticism this Section has been changed from the form in which it was first presented. In view of the fact that it has received most careful consideration from highly competent men we have reason to feel that its phraseology is reasonably good. We make no claim for its perfection but we hope that the great need of some definition of annulment will not be lost sight of in a prolonged effort to improve phraseology. It is well to remember that there will be other Conventions at which we might be better able to improve the Canon on the basis of experience.

This naturally leads us to the necessity of instituting some tribunal which shall pass upon marital cases. By tradition this power has been left in the hands of Bishops, but our Canon definitely gives him authority only in the case of divorces for adultery. We do not believe that it is the will of this Church that judgment in these cases be left to the individual clergyman. While there has been difference of opinion in your Commission as to whether it would be better to establish a court or leave judgment in the hands of the Bishop, we consider the objections to making the Bishop the judge are somewhat the same as the objections to the clergyman. To be sure he has a larger administrative experience, but on the other hand he is often unfitted temperamentally to pass judgment, he has not the time to give to it, and moreover, as a Father in God he is often torn between the desire to be a righteous judge and a kind friend. After careful consideration based on many suggestions received in response to our first statement, your Commission decided that it would be safest to establish some court that should deal with all marital cases.

Objections have been raised against establishing courts. One is that they will be more or less cold-blooded and mechanical, but this objection seems contrary to a result that might be anticipated. In the State Courts there has been a distinct tendency to establish special courts to deal with domestic relations, and for the reason that Judges who deal especially with these cases become more understanding and more sympathetic. Another objection is the difficulty in many Dioceses and Districts of finding the right sort of men to undertake this work; but we believe that a little consideration will make it clear that it would be next to impossible to name a Diocese or District in this Church in which it would be difficult to find Churchmen whose judicial ability is not as marked as that of the Judges now sitting in divorce cases for the State and thereby making decisions which this Church must recognize ecclesiastically. There are also those who feel that if judgment is left to the different courts in different Dioceses we shall thereby establish ecclesiastical Renos. Of course this is possible, but such a view indicates a serious lack of faith in the mental and moral integrity of the leaders of this Church. Jesus certainly showed His faith in God by reposing much confidence in humble disciples. This Church might wisely follow His example.

Your Commission is unanimous that our Canon should definitely constitute some tribunal for judging marital cases, either the Bishop with the help of a legal advisor, or a duly constituted court. A large

majority of the Commission, however, are decidedly in favor of a court.

We now come to the most debatable Section of the Canon, that dealing with the remarriage of divorced persons. It may be well to remind the Convention that your Commission was appointed primarily to consider the problem of divorce, naturally having in view action that might minimize divorce and make every marriage what Christ declared it should be—a lifelong union of husband and wife. One obvious way of meeting this situation is for the Church to take the stand that it will remarry no divorced persons, not even those divorced for adultery. This is the view of the Roman Church and the whole Anglican Church except our own, which now makes an exception in the case of adultery. This certainly would be a simple solution of the problem if it would work, but there is no clear evidence that it does work. Many who call themselves Roman Catholics appear in the Divorce Courts. In England, where the State Church holds this strict view, divorce is rapidly on the increase. In Canada the Anglican Church holds this position, but divorce is increasing at a rate that has led the English Church in Canada to appoint a Commission to deal with the whole subject of marriage and divorce. Indeed, the situation in Canada is much worse than it seems because so many Canadians cross the border and get their divorces in the United States. There are various other countries where the Church allows no remarriage, but in them concubinage and illicit marital relations are all too common.

Your Commission is agreed that in some way the Church must take a more sympathetic attitude toward divorced people. The majority offers an amendment to the Canon which would allow the remarriage of divorced people but under very definite conditions, namely, that a divorced person must wait a year before remarriage, and then receive the permission of a court. It is presumable that persons ready to meet these conditions earnestly desire the spiritual help that the Church has to give. Your Commission also presents a minority report; but this minority, while unwilling to allow the remarriage of the divorced, does feel that in view of the changed and changing conditions in the modern world, the Church must do more for divorced persons who want the help that the Church has to give. Therefore, they make the proposal that if the court permits and the parties have already been married by some civil officer, a clergyman of this Church may read a Service of Blessing.

Many feel that either to marry those who have been divorced or to hold a Service of Blessing for them is contrary to the plain teaching of Christ. They point to the fact that in the Gospels we find the definite statement of Christ that a divorced person who is remarried is guilty of adultery, and they vehemently and honestly declare that if we either marry or bless the marriage of divorced persons we put the Church in the position of condoning adultery.

On the other hand, many people believe that Christ allowed divorce, at least for fornication. They point out that in the Gospel of St. Matthew, He makes an exception for this cause; although the best scholarship holds that this exception represents an early interpolation in the text. Nevertheless, we must bear in mind the fact that the Gospel of St. Matthew with this interpolation was generally accepted throughout the Church by the end of the second century, and

it is difficult to believe that this passage would have been so recognized unless the Church felt that it represented the mind of Christ.

However, the real problem in connection with the teaching of our Lord in regard to divorce and remarriage lies in the fact that it is found, along with other equally specific commands that few people accept literally, such as the command not to take oaths, to turn the other cheek if one is struck, to give to everyone that asks of you, and to take no thought of the morrow. All the best scholars and thinkers agree that Christ did not give his followers a set of precepts, but that he stated principles of action which his disciples should formulate into precepts for their own times. Such is the position held not only by leading scholars of our own Church but also by such scholars in the English Church as Bishop Gore and Canon Streeter. Even some of these scholars think that in the matter of marriage Christ did lay down a definite law. For instance, Bishop Gore, in the "Philosophy of a Good Life," page 176, writes as follows:

"In one important matter, the matter of marriage, He appears to have laid down an explicit law, as St. Paul, St. Mark, and St. Luke report; but in the ordinary sense He was not a legislator. \* \* \* He proposed, it appeared, to inspire His Church (in a most realistic sense) with His Spirit; and to leave it to the Church to deal with issues as they should arise with the assistance of this divine Paraclete, the agent or representative of God."

In Bishop Gore's mind clearly Christ did lay down an explicit law in regard to marriage.

No scholar in England stands higher than Canon Streeter. In his "Moral Adventure," page 88, he says in regard to marriage:

"The idea that a definite ruling on this question is to be found in the words of Christ rests, I believe, on a misapprehension of His method and His meaning. In regard to no other question does He make rules; He states ideals—usually in the form of paradox or parable which could not conceivably be treated as legislative enactments. Most emphatically Christ taught that monogamy is the ideal, and that a divorce is a moral calamity."

Obviously the position that Christ's teaching in regard to marriage is absolutely plain is open to grave doubt. This doubt is increased when we consider what is perhaps His most fundamental moral teaching, namely that of forgiveness. His primary interest does not appear to be in what we might call the Church people of His day, but rather in those who were on the edges of the Church and of good society. He was accused of consorting with publicans and sinners. His forgiving attitude toward those who were guilty of adultery receives peculiar emphasis in the Gospels.

Therefore an increasing number of Christian people think it inconsistent with the mind of Christ that the Church should extend no real forgiveness to divorced people who are remarried, but declare that they live in a state of adultery. It is impossible legally, and undesirable morally, that the second marriage should be broken up. These same people also believe that it is not in accordance with the mind of Christ that the Church should marry men and women who have lived in illicit sexual relationships, which they have broken off, but extend no real forgiveness to men and women who were too high-minded to enter into such relations and who have been honorably married but whose marriages have unfortunately ended in the divorce court. With St. Paul they are impressed with the tremendous evil of fornication

and think that there is grave spiritual danger in always expecting men and women who have been married and divorced to live thereafter in a state of celibacy. Therefore your Commission believes that it would be more Christian in certain cases for the Church to marry or to give its blessing to the remarriage of such persons instead of exacting a form of repentance that is impossible. The ancient doctrine of the Atonement asserts that it is impossible for any of us to expiate for our past sins, and that all we can hope for is to take a fresh start and trust that by the grace of God we may do better in the future.

But, assuming that there is doubt, as there obviously is, in regard to the teaching of Christ in regard to divorce, who is to make decisions? Obviously these must be made by the Church itself. As Bishop Gore has indicated in the passage just quoted, Christ gave his disciples principles and left it to them and to their followers to work out these principles under the direction of His Holy Spirit. He has given no recorded directions in regard to the Ministry of his Church. He has given none in regard to public worship, or the Sacraments, except Baptism, and the Lord's Supper. The Church in each generation has the privilege, the duty and the responsibility of applying his teachings to the needs of its own day. Such an obligation falls upon us. Our chief problem is to make sure that we are indeed faithful to his teachings.

The practice of the Christian Church in regard to marriage has by no means followed what many call the plain teaching of our Lord. If He condemned the remarriage of divorced persons it is equally true that in saying "Those whom God hath joined together, let no man put asunder" He condemned the separation of all those who have been married. This injunction seems not only as imperative as the utterance against the marriage of those who have been divorced but in some ways it would appear more fundamental; and in discussion it is constantly made the basis for an argument against divorce. Nevertheless from the beginning the Church in all its branches has recognized the need of separation from bed and board. The principle of annulment has been generally accepted and in many cases it seems to be the equivalent of divorce. Since the Reformation there has been a limited recognition of divorce by many of the Protestant Communions, and divorce with the privilege of a second or third remarriage has been and is permitted by the Eastern Orthodox Church.\* Of course separation from bed and board does not carry the right of remarriage, but annulment does; and the Roman Church has extended the use of annulment in ways that do not seem desirable to most members of our own Church, as in the case of mixed marriages and the marriages of the unbaptized. We believe that most members of our own Church would prefer to have a separation in the form of a divorce rather than an annulment, feeling that in certain cases it does not make so much difference whether there is a divorce or an annulment, which may be a different name for the same thing. It has already been pointed out that it would be easily possible to extend the principle of annulment to cover all sorts of mental and moral deficiencies that existed in people before marriage. Therefore we believe it would be wiser to limit definitely the use of annulment, and increase the grounds for divorce. In so doing our Church would follow the example of the great and ancient Eastern Orthodox Church which

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\*See Note 3.



allows a second and sometimes a third remarriage of persons divorced for a number of reasons besides adultery.

Therefore, a majority of your Commission believe they are acting according to the mind of Christ and the practice of the Catholic Church when they suggest that this Church under limited conditions allows the remarriage of divorced persons.

The minority of your Commission, however, is opposed to allowing the Church to remarry those who have been divorced. They are willing, however, that a Minister of this Church if permission is duly given, should be allowed to use a Service of Blessing. This leads us to consider two important questions,—viz., what do we mean by *Marriage*? and what do we mean by a *Blessing*? From many communications that have come to us it is obvious that there is much confusion of thought in regard to both of these matters. We cannot do better than quote a statement in regard to the nature of marriage prepared by Professor Beale:

"Marriage is the legalization by the State of a union between a man and a woman. The State often permits or requires a minister of the Church to be the instrument of the law in creating such a marriage; but only through such action of the State can the act of any minister of the Church make the union marriage. Thus

"1. If the minister, acting under the law of his Church, unites a man and woman, they are not married if the union is not legalized by the State.

"2. If the minister unites a man and woman contrary to the law of the Church, it is nevertheless a valid marriage if the law of the State so declares.

"So it is with divorce. If a man and woman once married are legally divorced, no law of the Church can make them man and wife: thus

"1. If they live together without remarriage they are guilty of adultery, the law of the Church to the contrary notwithstanding.

"2. If either legally marries again; the law of the Church cannot prevent the second marriage being a legal one.

"Certain ancient texts have been cited to prove that the law of the Church governs. This was true so long as the Pope maintained his power. It has not been true, in countries governed by the Common law, since the separation of the Church of England from Rome.

"It has been suggested that the parties to a marriage are married from the moment they agree to take each other until death them do part. This might have been plausibly argued 100 years ago, but today most canonists, I think, would agree with municipal lawyers that the act of the magistrate (whether clerical or lay) pronouncing the parties man and wife creates the marriage, if it is a legal union; and that nothing in the ceremony can create a marriage if it is not legal."

Obviously from a social and legal standpoint some kind of ceremony is necessary to a valid marriage. We are all familiar with two kinds of ceremony, a civil ceremony performed by some officer of the State which is required in certain European countries and is common in this Country, and an ecclesiastical ceremony. In this country the two are generally combined and when a clergyman of this Church officiates at a marriage he represents the State as well as the Church. The Church has its laws and the State has its laws, and there is a constant confusion of duties and responsibilities. For this reason

there has developed within the Church a strong desire to separate these two ceremonies and require that all persons be married by some officer of the State and then if they so desire go to the Church to have the marriage solemnized. Under this plan the Church would be free to work out its own principles and enunciate its own laws in regard to marriage in such a way as to avoid the present confusion. Your Commission was definitely instructed to consider this problem and a minority at one time made a definite recommendation in favor of this plan. Indeed the minority report to the Convention is based on this point of view. However, your Commission does not see its way to recommend a separation between the civil and the religious ceremonies. There are certain marked advantages in allowing clergymen to act as officers of the State in the matter of marriage. It means that thousands of people turn to the Church for marriage who otherwise would go to civil officers and the Church would lose a great spiritual opportunity. When people are seeking marriage they are normally in an idealistic frame of mind and peculiarly receptive to spiritual influence. Practically every clergyman has had the experience of leading people through marriage to Baptism and membership in the Church. In a little book entitled, "The Marriage Service and After," the Rev. H. C. Park of the Church of All Angels, Pasadena, tells us that many people who have come to him for marriage have been led to Baptism and Confirmation. As one of the chief aims of the Church is to spread the borders of the Kingdom of Christ, it seems highly undesirable deliberately to throw overboard one of our greatest opportunities for impressing people with the value of religion.

This brings us to the question as to what is meant by "blessing the parties to a marriage." There seems to be a wide spread idea that for a minister of the Church to give such a blessing means to give the *approval* of the Church, but in fact the word "blessing" ordinarily means a prayer that the person who is blessed may receive the grace and help of God. The Church holds Services,—yes, Communion Services—in Detention Homes and in prisons, but the Priest has no thought that in pronouncing the benediction he is approving of prostitution, of stealing or of murder. Most Bishops would be sorry to think that in blessing those whom they confirm they were setting their stamp of approval upon each one of them, and most clergymen would shudder at the idea that in pronouncing the benediction they were putting the stamp of approval on the lives of all communicants. Indeed, nothing is further from our thoughts. No matter how sinful those in front of us are, in blessing them we express the hope that by the help of God they may be enabled to live better lives.

It is with this idea in mind that those who present the Minority Report suggest that clergymen of this Church be allowed to hold a Service of blessing for those who have already been married by a civil officer. They do it with the thought not of indorsing the marriage but in the hope of sanctifying it and of helping to a larger degree of success those who have failed in their previous marital relations.

There are many in the Church who are distressed about the action of your Commission in regard to divorce because they fear that it will break down the Christian standard of marriage. No one recognizes more clearly than your Commission that there is always this danger, but our position is well expressed by Canon Streeter ("Moral Adventure"—page 90):

"The state of things at the present moment is such that much adventurous thinking, and probably some practical experiment will be

needed before the right remedy is discovered. But we have always to remember that no such experiment will be in its total effect moral, unless it can somehow find a way to meet cases of exceptional hardship without any weakening of the hold on the popular mind of the principle that marriage is essentially and ideally a life-long union. If exceptions to this principle are too lightly admitted, it will be hard for the average man and woman to retain that sense of security and sanctity in marriage which is a condition of their deriving from it the maximum of moral and spiritual benefit."

We appreciate the value of the uncompromising stand in regard to marriage taken by the Roman Church and the Anglican Church. Nevertheless we hold with Canon Streeter that there must be something in the way of adventure, and this not to lower standards to the level of those of modern society, but with the expectation of raising to the standard of Christ many people who without the help of the Church would continue to fall far short of it. We must remember that many of our best thinkers do not consider divorce as an unmitigated evil. In the past the whole emphasis has been laid on the promise of man and wife to live together "for better or for worse until death us do part," but in these later days emphasis has been increasingly laid on the promises in the marriage vow "to love, comfort, honor and cherish," and the feeling has gained ground that the breaking of these promises seriously invalidates the rest of the vow. Fornication, adultery, cruelty, drunkenness, desertion, and many other sins have been endured by both husband and wife, and there is surely something to be said for the point of view that requires those who are married to observe the ordinary laws of righteousness and decency if they expect their married life to continue. Your Commission believes that the only real way in which we can sanctify the institution of marriage is to sanctify it in practice, and that while the Church must exercise great caution in doing anything that seems to condone divorce, nevertheless the solution of the problem lies in the development of true Christian homes, homes that are permeated with the Spirit of Christ.

It has frequently been said that if the proposed Amendment were to pass that we ought to change the vows in the Marriage Service, because it would be absurd to repeat the pledges in the present form "as long as we both shall live" and "until death us do part." This criticism loses much of its force, however, when we recall the promise made in Baptism and renewed in Confirmation in answer to the question "Wilt thou obediently keep God's holy will and commandments and walk in the same *all the days* of thy life?" There is no qualifying phrase here to weaken the solemnity of the undertaking. The Sentence of Baptism itself also assumes that he who is baptized will continue God's faithful soldier and servant *unto his life's end*. Indeed all the highest obligations are lifelong. God and Christ expect us to strive always for the highest, and we never put any goal except the highest before those who enter Christ's service. There is no reason why the Church should take any different attitude in regard to the promises required of those who are to be married. Christ's standard of marriage is that it is a lifelong union, and for this standard all should strive; but we may seriously question whether those who have failed in marriage, possibly through no fault of theirs, should be so much more heavily penalized than those who fail to attain the standards of Christ in other things.

We now come to what we consider the only real solution of the problem of divorce, viz., the right sort of education for marriage.

There are doubtless many people who would like to see this Convention adopt some Canon or formula which would solve all the problems of married life, but this may not be. A competent writer on the subject of the family has recently said that if the energy now directed toward getting reforms in divorce laws were directed for a time toward making marriage more carefully considered and intelligently entered upon, the results would be surprising. He also says that nothing could be more illogical than the present policy of society (1) of letting people marry in ignorance; (2) letting them divorce because of this ignorance; and (3) letting them, still ignorant, make new matings, many of which will be broken up in the same way and for the same reason.

There is nothing in life more important than the institution of marriage. It is as vital as life itself, and is the concern of every human being. Yet there is nothing for which people receive less preparation and training. Until within a few years the whole subject of sex has been taboo, and the knowledge of most men has been gained in such a way as to give it a more or less filthy tone. On the other hand many of our women have been trained to look on sex as something necessary but nasty, with the terrible results seen in those sexual maladjustments which the best thinkers consider a primary cause of marital unhappiness and divorce. The results are also seen in all sorts of psychoneuroses, sexual perversions and insanities. Training must be given in the dignity, the beauty and the glory of sex, which is the source of life itself and closely identified with spiritual love and many of the noblest achievements of the human race.

A second most crying need is to break down the prevailing *romantic* idea of marriage, namely that marriages are made in heaven, and that one has only to find his true mate to enjoy everlasting happiness. Psychiatrists more and more are emphasizing the fact that this vicious delusion is more responsible than any other for hasty, ill-considered and unfortunate marriages, and it has been given the name of *romantic infantilism*. Nothing is more needed than the realization that the best married love is an *achievement*, something that indeed may start in love at first sight or in mutual attraction, but which must be nursed and developed as a beautiful but tender plant.

It is also obvious that righteousness must be basic in marriage as in every other human relationship. Husbands and wives must be honest with each other, they must be fair and just in accepting the responsibilities and duties of married life. It is unthinkable that marriage can be successful unless husbands and wives are pure, sober, and exercise control of temper and of tongue. Nor can any two human beings live together happily unless their conduct is marked by the spirit of kindness and consideration. Probably no human relationship is more difficult of successful achievement than that of marriage, where two personalities, different in training, outlook and sex, are brought together in the most intimate relationship of life. Unless both husband and wife have respect for the personality of each other and desire that personality to be fully realized, unless they are charitable with each other's failings and mistakes and are prepared really to overlook many faults and transgressions, it is unthinkable that their marriage should increasingly attain their early dreams of love.

Moreover, we need an increasing realization of the necessity of children in the home. The obvious end of sex is the procreation of children, and unless children are born the normal purposes of mar-

riage are not fulfilled. It is a serious and dangerous thing to thwart them. Moreover to attain a successful marriage both husband and wife need some great common purpose outside of their own lives. There is no bond of unity so compelling, so rich and so joy-giving as that of children.

The outstanding need in married life, however, is the realization that marriage like every great human relationship must be based on the spirit of self-sacrifice rather than that of self-satisfaction. In all achievement we must pay the price of struggle, disappointment and sorrow. To achieve Christian marriage as to achieve anything worthwhile in life men and women must be prepared to make great and joyful sacrifices.

Education for marriage must begin at birth. In the earliest years of babyhood such emotional qualities as love, fear and hate are largely determined. The same is true of the control of temper, tongue and will. Then, too, the ideals of life are formed,—ideals of manhood and womanhood, of the purpose of life, of home life, of country and of God. Next come the turbulent years of adolescence when manhood and womanhood are beginning to dawn, years that must be treated firmly, lovingly and hopefully. Then comes marriage; and no one can estimate the help that a wise sympathetic spiritual advisor could give to young men and women in the first two or three years of married life when they are overwhelmed and confused by new and strange experiences. Then follow the later years of strain, sometimes spoken of as the forties, and many Churches and social workers rightly feel that if people could then turn to someone skilled in the cure of souls, their married life would not only be saved but enriched through the facing and surmounting of difficulties that seem to make its continuance impossible.

Those of us who are within the Church believe that one of its outstanding functions and responsibilities is to take a place of leadership in character training; and this responsibility is generally recognized by modern society. Not only should the Church have first place in character training but we are convinced that it has certain contributions that cannot be found elsewhere. The primary gift of the Christian religion is its philosophy of life. It sets up a standard and a pattern to which it believes all life must conform, viz., the will of an all-powerful God, in obedience to whose laws the fulfillment of life can alone be found. We believe that God has revealed himself in our Lord, Jesus Christ, as a God of infinite love, and that also through Jesus has claimed the whole world and all human lives for himself. The head of one of our great schools in a recent book has said that there are just two ways of looking on a boy,—one is that he is a necessary evil, and the other is that he is the child of God. It is this conception of man as the child of God that is basic in any happy marriage. It emphasizes the fact that the Spirit of God dwells in every human being and that therefore both body and soul are holy. It sanctifies and glorifies the sexual life and the sexual relationship, and within the bonds of marriage makes it a sacramental thing,—one of the primary purposes and glories of life itself.

Christianity also stands for duty,—duty to God and one's neighbor. This means an obligation to do what is right no matter how it hurts or what it costs. Also, at the center of Christ's teaching is the duty of kindness, sympathy and forgiveness; and the climax and glory of all is the teaching in regard to sacrifice as a fundamental quality in

the life of man because it is the outstanding characteristic of God himself.

Finally, the Gospel emphasizes the importance of happiness, but not as an end in itself but rather as a by-product, the result achieved by those who fulfill their obligations to God and to their neighbors. Nothing can be more important today than the strongest emphasis on this truth. There are multitudes of people seeking happiness as an end in itself. This is one of the reasons why so many marriages fail. If husbands and wives sought the will of God in accordance with the laws of God, a profound joy and happiness of life would follow. Happiness is the result of character. There are many people who seek it everywhere as they seek it in marriage, but they cannot find it in marriage or anywhere else unless they possess the secret of happiness within themselves.

Therefore, we urge the Church to bestir herself in regard to character education not merely for marriage but for all the relationships of life. Otherwise her leadership may pass from her as it has in education, as it has largely passed in the care of the sick and in the administration of charity. One of the most difficult things in which to interest the clergy and laity of this Church is sustained religious and character training, but herein lies her chief opportunity. If she fails here her influence will be increasingly jeopardized. It is easy to think that the slow processes of education are unimportant. An outstanding evidence of this is found in the fact that when the National Council curtailed its budget one of the first cuts made was in the Department of Social Service, thereby destroying a most notable phase of its work,—Institutes in family relationships. The Church must show more interest in its child life and must give far more attention to the youth movement. One of the greatest leaders in the Anglican Church has pointed out that in no way could the Church render a greater service in the matter of marriage than by helping young men and women to better opportunities for social contacts in their search for mates. Here would seem to be a great neglected opportunity. Many clergymen are crying for the banns. The purpose of banns is to make unadvised marriages more difficult, and this is well; but the good that could be accomplished by banns would be trivial as compared with affording young men and women such opportunities for social contact that they would really come to know something about one another. That this problem is a most serious one is evidenced by the existence of so many vicious dance halls and matrimonial bureaus. Nothing can be more important in modern society than to give young men and women a real opportunity to become better acquainted with one another before they take the lifelong vows of marriage.

Another tragedy in the life of the Church is its slight hold on young married people. Few of them attend Church, few of them are found in Church organizations. An earnest effort should be made to cultivate closer relations with them, because they so often need the help that the Church can give. The same is true in regard to older people, as has already been said.

But if the Church is to accomplish this great task of education it must depend on the leadership of the clergy, and the tragic fact is that they are rarely so trained that they are competent to take a position of leadership in the education of character or in the cure of souls. In the questionnaire sent out by your Commission three years ago one of the sad facts was that so few clergymen reported that people came to them with their marital problems. Yet why should

they? What training or experience has the ordinary clergyman that should make the average layman feel that he is skilled in dealing with the delicate problems of marriage. Yet one may be sure that if a clergyman were skilled in giving help he would be overwhelmed with those who would come to him, just as any clergyman is overburdened who acquires a reputation for helping those who are sick of soul. In the report of the last Lambeth Conference nothing received greater emphasis than the crying need for training our clergymen so that they should become skillful in dealing with the moral problems of life and in the cure of souls.

With this need of education in mind your Commission has drafted Section I and Section VI of the proposed Canon, which are largely of an educational nature. Section III calls for instruction in the nature of Christian marriage, and requires every clergyman to see that the parties seeking marriage at his hands have been instructed in regard to the nature of Christian marriage, and he must have them sign a statement indicating that they will strive to realize it. In Section VI we have stressed the importance of establishing the right sort of pastoral relation between priest and people in an effort to compose marital difficulties. There has been considerable criticism of these Sections, especially in regard to Section I, on the grounds that Canons are not the place for preaching. It has also been pointed out that many people would subscribe to the required statement in regard to marriage but never pay any special attention to it thereafter. This is doubtless true, but these sections of the Canon hold up clearly the standard of this Church in regard to marriage, and make as emphatic as possible the need for Christian education. They magnify the importance of education for marriage as something in which the laity of this Church should be interested, but especially as a responsibility of the clergy,—one that the individual clergyman may not evade and one which the Church through its formularies and through its Seminaries must accept as a primary obligation.

In dealing with education for marriage we face a difficult and extensive subject. The responsibility is too great for any one Christian Communion to shoulder, nor is there any such necessity. Most of the other Christian Communions in this land have appointed Commissions to study this whole subject of marriage and divorce, and there could be no better book for clergy and laity to read than that entitled "Twenty-four Views of Marriage," which has been edited by the Presbyterian Commission, published by Macmillan. The efforts of these various Commissions are being coordinated by the Federal Council of Churches, which now has a special Committee dealing with the whole subject of Marriage and the Home, which is giving attention both to research in the field of marital relations and the subject of education for Christian marriage. In accordance with the direction of this Convention we are cooperating with this Committee, on which the Church is represented by two members of your Commission.

In conclusion, we would chiefly stress not merely our conviction as to what the Christian Church might accomplish in the way of achieving true marriage and minimizing divorce, but rather what it is already doing. The investigation made by your Commission three years ago contained some significant facts, especially where husband and wife both regularly attended church. Clergymen of our own Church, reporting for 787 parishes with thousands of communicants, stated that in 87 percent of those congregations they could recall but one divorce or less. Clergymen of the Presbyterian Church reported that in 92

percent of 695 congregations they could recall but one divorce or less; Baptist clergymen reported but one or less divorces in 91.09 percent of 682 congregations; Congregational clergymen reported but one or less divorce in 93.9 percent of 520 congregations; and clergymen reporting for the Methodist Episcopal Church could recall but one divorce or less in 93.9 percent of 1,062 congregations.

These figures are a striking testimony to the fact that there is something about regular participation in the life of the Christian community that sanctifies, enriches and stabilizes married life. When all else has been said it would seem that if we are really anxious to minimize the evil of divorce the way to do it is by bringing as many people as possible into the active life of the Church.

The Commission therefore recommends the adoption of the following resolutions:

**RESOLUTION No. 1.**

*Resolved*, the House of .....concurring, that Canon 43 "of the Solemnization of Holy Matrimony" be amended by striking out everything after the title and inserting in place thereof the following:

§ I. [i.] In every Parish instruction shall be given both publicly and privately, on the nature of Christian marriage, its responsibilities, and the mutual forbearance which it requires.

[ii.] No Minister of the Church shall solemnize a marriage unless he is assured that the parties thereto are thus instructed and that both hold the Christian ideal of marriage. In which case, before he officiates, he shall require them to sign in his presence the following statement:

"We, A. B. and C. D., desiring to receive the blessing of the Church upon our marriage, do solemnly declare that we hold Christian marriage to be a life-long physical and spiritual union of husband and wife, for the purpose of mutual fellowship, encouragement, and understanding, for the procreation (if it may be) of children and their physical and spiritual nurture, and for the safeguarding and benefit of society. And we engage ourselves, so far as in us lies, to make every effort to realize the Christian ideal and to avail ourselves of means of grace thereto as taught and provided by the Christian Church."

§ II. [i.] There shall be constituted in each Diocese and Missionary District an ecclesiastical court, with jurisdiction to act in all marital cases where one at least of the spouses is domiciled and a stated worshipper within the Diocese or District.

[ii.] Unless otherwise provided in the Constitution and Canons of the Diocese or District, the Judge or Judges of ecclesiastical courts shall be appointed by the Bishop, with the advice and consent of the Standing Committee, and shall be godly communicants resident in the Diocese or District, and learned in both the law of the Church and the law of the State.

[iii.] Unless otherwise provided in the Constitution and Canons of the Diocese or District, the Judge or Judges of an ecclesiastical court may fix the rules of procedure of his or their court.

§ III. [i.] The following are impediments to marriage:

1. Consanguinity (whether of the whole or of the half blood) within the following degrees:
  - (a) One may not marry his ascendant or descendant.



- (b) One may not marry his sister.
- (c) One may not marry the sister or brother of his ascendant or the descendant of his brother or sister.
- 2. Lack of free consent of either party.
- 3. Mistake as to the identity of either party.
- 4. Mental deficiency of either party sufficient to prevent the exercise of intelligent choice.
- 5. Insanity of either party.
- 6. Failure of either party to have reached the age of puberty.
- 7. Impotence of either party.
- 8. The existence of venereal disease in either party.
- 9. Facts which would make the proposed marriage bigamous.

[ii.] No Minister, knowingly after due inquiry, shall solemnize any marriage if there exist at the time of marriage any impediment to a valid marriage, nor shall any member of this Church enter upon a marriage when any impediments exists. If a marriage is entered upon when any of these impediments exist it shall be null.

[iii.] If, after a marriage has been dissolved by a civil court, it shall be proved that, at the time of the marriage, any of the impediments existed, the ecclesiastical court having jurisdiction over marital cases in the Diocese or Missionary District in which one of the parties is domiciled may declare the marriage null.

[iv.] A person whose former marriage has been annulled or dissolved by a civil court and annulled by an ecclesiastical court, may be married as if he had never previously been married.

§ IV. Ministers of this Church shall be careful to secure the observance of the law of the State governing the civil contract of marriage in the place where the service shall be performed.

§ V. [i.] No Minister shall solemnize a marriage except in the presence of at least two witnesses.

[ii.] Every Minister shall without delay formally record in the proper register the name, age, and residence of each party. Such record shall be signed by the Minister who solemnizes the marriage, and by the married parties, and by at least two witnesses of the marriage.

§ VI. If one party to a marriage so grievously offend the other that the security or permanence of the home is imperiled, it shall be the duty of the offended party, before instituting legal proceedings of any nature, to lay the matter before a Minister of the Church; and it shall be the duty of such Minister to labor that the parties may be reconciled. If in the end they cannot be reconciled, the Minister shall report his findings in the matter to the Bishop.

§ VII. [i.] No divorced person whose former spouse is alive shall be married by any Minister of the Church except as provided in this Section.

[ii.] Any person whose former marriage has been dissolved for any cause by a civil court may, after the expiration of one year from the granting of the divorce apply to the ecclesiastical marital court of his or her domicile for permission to marry another person. The court

shall thereupon inquire into the characters and personalities of the parties to the previous and proposed marriages and the conduct of the parties concerned in the divorce, and whether or not the applicant did what he or she reasonably could have done to avoid the separation; and if after this inquiry the court shall determine that the spiritual welfare of the applicant will be best served thereby, it may permit the proposed marriage. In such case, a Minister of the Church may solemnize the same; provided, that it shall be within the discretion of any Minister to decline to solemnize any marriage.

Your Commission feels that the subject of marriage and divorce is so important, that there is so much to be done in the way of research, and especially along the lines of education, that it should be continued and therefore offers

#### RESOLUTION No. 2.

*Resolved*, The House of ..... concurring, that this Commission be continued with the understanding that it will cooperate with other agencies to secure a scientific study of the subject of marriage and divorce, including the study of moral and religious factors, and also to further every undertaking which looks to education for Christian marriage; and that for the purpose of its work the Commission have power to add to its number.

In view of the fact that a Committee of this Commission, at considerable expense, has made a comprehensive and careful study of the *Corpus Juris Canonici*, and of the authorities on the Canon Law of the English Church, this Commission offers

#### RESOLUTION No. 3.

*Resolved*, The House of ..... concurring, that the Commission on Marriage and Divorce be requested to prepare and publish a digest of said Canon law.

#### MINORITY REPORT OFFERING A SUBSTITUTE FOR SECTION VII

VII. Any person whose former marriage has been dissolved for any cause by a civil court and who has been remarried by civil authority, may apply to the ecclesiastical court of his or her domicile for the recognition of such civil marriage. The court shall thereupon inquire into the character of the parties to the previous and the existing marriages and determine whether the welfare of the parties and the good of society will be served by such recognition.

In case of a favorable decision, no impediment shall exist to their membership in the Church and a Minister of this Church may in his discretion bless the parties to the union.

Provided, further, that it shall be within the discretion of any Minister to decline to solemnize any marriage.

#### REASONS.

The reasons for offering this substitute for the foregoing report of the Commission on Marriage and Divorce are as follows:

1. We object definitely to the remarriage of divorced persons by a Priest of the Church and to the use of the Marriage Service for such remarriage.

2. In this matter of marriage, we believe in the separation of Church and State. We feel that a clear distinction should be made between a civil marriage and the blessing of a union by the Church.

3. We believe that if any provision is to be made by the Church for the recognition of the marriages of divorced persons, such remarriages should be definitely safeguarded in some such way as we propose. The majority report of the Commission would open wide a way for the remarriage of divorced persons with the full Service of the Church and the taking of life-long vows.

4. We recognize in the present state of society the confusion that exists concerning the whole question of marriage and divorce, the ignorance of many people concerning the Church's standards of marriage and the laxity of the laws of many States. We realize that there are persons who have made unfortunate marriages and that the welfare of society and the welfare of such persons might be furthered by keeping them in touch with the Church although they have been divorced and remarried. If the present Canon in regard to the remarriage of divorced persons is repealed, some provision must be made for such cases. We offer this substitute as an attempt to recognize actual conditions and to provide for penitent persons who wish to have their marriage blessed and to remain in union with the Church.

RT. REV. HERMAN PAGE, D.D.—*Chairman.*

REV. PERCY G. KAMMERER, PH.D.—*Secretary.*

MR. JOHN M. GLENN—*Treasurer.*

RT. REV. PAUL MATTHEWS, D.D.

RT. REV. WILLIAM J. SCARLETT, LL.D.

RT. REV. CAMERON J. DAVIS, D.D.

REV. FRANK H. NELSON, D.D.

VERY REV. FREDERICK C. GRANT, D.D.

REV. HOWARD C. ROBBINS, D.D.

REV. CALEB R. STETSON, D.D.

PROFESSOR JOSEPH H. BEALE.

MR. ORIGEN S. SEYMOUR.

MR. GEORGE W. WICKERSHAM.

MR. ROLAND S. MORRIS.

NOTE 1. (omitted here) Present Canon 43.

#### NOTE 2.

#### A STATEMENT REGARDING THE CANON LAW

By PROFESSOR JOSEPH H. BEALE.

"The Canon law has been carefully studied by a sub-committee of the Commission, and the result is the provisions of Section V of the proposed Canon on Matrimony, as herein drawn.

"Upon the separation of the English Church from Rome, the question at once arose as to the effect of separation on the law governing the Church. This law, for the English branch of the Catholic Church, had consisted in the Corpus Juris Canonici, accepted by the whole Western Church as its law, and certain special provisions applicable to England only, called 'Constitutions Provincial and Legatine.' The accepted doctrine with regard to these sources was that so much of