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WITH APPENDICES

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APPENDIX 27

REPORT OF THE JOINT COMMISSION ON HOLY MATRIMONY

The Joint Commission on Holy Matrimony presents the following report to the General Convention of 1946, and proposes the adoption of the Resolutions attached to it. The Report and Resolutions represent the unanimous agreement of the members and associate members of the Commission.

The Commission has held only three meetings in the triennium for reasons of economy. Much of the discussion has been carried on through correspondence, and much of its action accomplished through sub-committees. At the request of the Woman's Auxiliary, the President of the House of Deputies appointed two women as associate members, and the Commission was glad to give them a vote as well as a voice. The Secretary of the Commission, Reverend Stephen Bayne, Jr., entered the Navy in 1944, and the Reverend Arthur Kinsolving, D.D., became Secretary pro tem. When Dr. Kinsolving was made Bishop of Arizona, the vacancy among the Presbyters was filled by the appointment by the President of the House of Deputies of Reverend Albert A. Chambers of Central New York. Bishop Kinsolving, however, was retained as a consultant of the Commission and the Reverend Beverly Boyd, D.D., was appointed Secretary pro tem.

It seemed to the Commission essential that the question submitted to it be discussed widely and intelligently by the Church. We therefore asked for the appointment in each Diocese of a Committee on Holy Matrimony, to study the question and advise the Commission. Fifty such committees were appointed.

Next we enlisted the good offices of a number of recognized scholars to write papers dealing with the basic principles upon which the Church's attitude should rest, and published them in a series of tracts as follows:

I. *The New Testament on Marriage*, by Burton Scott Easton, S.T.D., of the General Theological Seminary.

II. *Notes on the History of Marriage Legislation*, by Frederick A. Pottle, Sterling Professor of English, Yale University.

III. *The Mind of Christ on Marriage*, by Frederick C. Grant, of Union Theological Seminary.

The Theological Aspect of Christian Marriage, by W. Norman Pittenger, S.T.M., Fellow and Tutor of the General Theological Seminary.

IV. *Jesus' Teaching on Divorce*, by Sherman E. Johnson, Ph.D., Associate Professor of the New Testament at the Episcopal Theological School, Cambridge.

These tracts were distributed to the Diocesan Committees along with an introductory pamphlet containing articles by Dr. Walter Stowe and Dr. Kinsolving relating to the proceedings of the last Joint Commission, and the questions raised. A copy of this Report of 1943 was also sent to the Committees. The Commission takes this opportunity to express its deep sense of gratitude to the writers of the tracts which are a valuable contribution to the literature on the subject and to the thought of the Church.

Finally, a questionnaire was formulated by a committee of the Commission and distributed. This pointed out the questions involved and focussed the thought of the Committees upon them.

From the reports of the Diocesan Committees as well as from the proceedings of the last General Convention, the Commission has concluded that there is a wide-spread and growing feeling in the Church that for one reason or another the present Canon 16 does not express the mind of Christ and does not minister to the welfare of society, and that it should be changed. With this view the Commission agrees. That the present canonical attitude of the Church towards divorce and remarriage is both ineffective and untrue to the underlying purpose of marriage seems evident to the Commission. The underlying purpose of marriage is to build a united and enduring home in which children will be spiritually and physically equipped to meet life successfully, and also to develop spiritually husband and wife by their ministration each to the other and to their home. Social conditions today emphasize as never before the need of such homes. Juvenile delinquency, the "problem child," and even the psychopathic child are in nine cases out of ten the product of disunited, loveless and broken homes. And such homes are multiplying at an alarming rate. Furthermore hasty "war marriages" are more and more ending in divorce. The Church is not true to the underlying purpose of the Christian conception of marriage if, in the face of these conditions, she does not clarify in her own mind her primary duty to aid in the building of united homes. This means that her legislation should aim not only at keeping married people together but at making provision for proper preparation of marriage, in ministration to the family unit, and in the case of utter marital failures in helping to build new and better homes. This last entails a Canon flexible enough to enable the Church to deal with individual cases of divorce and remarriage upon their merits which again means reposing discretion in the administrators of the law.

Your Commission is fully awake to the need of legislation that will enable the Church to further the underlying purpose of marriage in the face of society's desperate need. At the same time we are conscious of the difficulties and dangers that stand in the way. There seems to be no doubt that Christ's teaching was that in a God-made marriage a lifelong bond is created, mystical but none the less real. That seems to be the meaning of "They twain shall be one flesh," and "Whom God hath joined together let no man put asunder." It is similar to the bond created by Baptism whereby a child is made a member of Christ's Body. It is similar to "the mystical union that is betwixt Christ and His Church." A marriage therefore which is dissolved for superficial reasons by a court may still be a marriage in the eyes of God. Christ's teaching is not a law, nor is it an ethical precept; it is a statement of fact. The ethical portion of His teaching about it is not primary but derived from the nature of the fact. We should lose more than we can gain if the Church's legislation even in the face of social necessity so "lets down the bars" as to deny the mystical and sacramental content of matrimony and its lifelong character.

Your Commission therefore is deeply concerned to find the theological ground upon which the underlying purpose of Christian marriage may be served and yet its profound significance may be maintained. We are certain that such ground exists. For Jesus' teaching invariably was concerned with furthering the underlying purpose of an institution or a law. "The Sabbath was made for man and not man for the Sabbath," is the classic expression of that attitude. And to us it seems that His unvarying emphasis upon the spiritual content of behaviour, motive and intention, points a way. Not that His teaching regarding the nature of marriage is a "counsel of perfection"; it cannot be that if it is a statement of fact. But the criterion of true marriage lies in the parties' consent of heart, mind and will to the union. If such consent is not given by reason of spiritual, mental or physical incompetence, or fraud, the indissoluble bond of marriage is not created.

The historic Church has faced the same difficulty that we are facing. The practice of "economy" and "dispensations" shows that she often puts the underlying purpose of a law above literal conformity to it. With regard to marriage she has solved it in the Western Branch by a recognition of the principle that the mystical bond is not created unless the partners are free and competent to give consent to its creation. Your Commission proposes the same solution, save that we would have the Church recognize that the words "free and competent" in the Church's conception must rest upon qualities of the inner man and have a wider meaning than the civil law gives them and a less legalistic interpretation than one branch of the Catholic Church gives them. With such wider meaning their absence might not be evident until the strains of married life bring them to the surface, but even latent at the time of marriage they prevented the forging of the indissoluble bond. In one word every marriage is not a God-made marriage, but it is the God-made marriage that is indissoluble according to our Lord's teaching. A marriage in which the parties barely know one another, or in which there is no intention to form a lifelong union, or in which either does not comprehend at all the spiritual significance of the marriage, or in which neither recognizes the meaning and necessity of God's grace, or in which there is a hidden and disastrous weakness of character not evident at the time but manifest later on,—a ceremony cannot make such a union a true marriage in the Church's conception.

We lay the responsibility of discovering whether a marriage is a true union upon the Bishop and a Court. This means great responsibility for them but it is the only way, we believe, that the Church can discharge her important duty. Furthermore, we recognize that the Church should not legislate save for her own members and we have therefore specified that only active members of the Church can apply for the Bishop's judgment in regard to marriage. The Court will, we believe, serve a triple purpose: it will gather facts and form opinions, more objectively and efficiently than the Bishop alone; it will relieve the Bishop often in embarrassing situations; it will reduce the number of applications for judgments.

We have also made provision for a permanent Commission on Holy Matrimony to collect and codify the records of judgments so that little by little a code of procedure may be built up to guide Bishops and Courts, and also so that objective opinions can be given Bishops and Courts when sought in specific cases.

Scholarship seems agreed that adultery, as a ground for divorce, as in our present Canon, has no scriptural authenticity, and we have therefore omitted it from our proposed Canon. Certain sections in the Canon proposed in 1943 seem to us valuable, but in the interest of brevity and simplicity we have transferred them to other Canons such as Canon 44, Of Ministers and Their Duties, or Canon 15, Of Regulations Respecting the Laity; or we have embodied them in a Resolution, as in the case of the Statement to be signed by prospective brides and grooms.

We are conscious of the fact that there is a desire on the part of the Church for a simple and brief Canon. We have tried to comply with that desire, but we believe that the importance of the subject must have precedence over brevity and simplicity, and that we have been as brief and as simple as it is possible to be if both the cause of truth and the cause of social need are to be served adequately.

I. *Resolved*, (the House of . . . concurring), That Canon 16 be amended to read:

CANON 16 OF THE SOLEMNIZATION OF HOLY MATRIMONY

I. Every Minister of this Church shall conform to the laws of the State governing the creation of the civil status of marriage, and also to the laws of this Church governing the solemnization of Holy Matrimony.

II. No Minister of this Church shall solemnize any marriage unless the following conditions are complied with:

(a) He shall have ascertained the right of the parties to contract marriage according to the laws of the State.

(b) He shall have ascertained the right of the parties to contract a marriage according to the laws of the Church.

(c) He shall have ascertained that at least one of the parties has received Holy Baptism.

(d) He shall have instructed the parties as to the nature of Holy Matrimony.

(e) The intention of the parties to contract a marriage shall have been signified to the Minister at least three days before the service of solemnization; PROVIDED, that, for weighty cause, the Minister may dispense with this requirement, if one of the parties is a member of his congregation, or can furnish satisfactory evidence of his responsibility. In case the three days' notice is waived, the Minister shall report his action in writing to the Ecclesiastical Authority immediately.

(f) There shall be present at least two witnesses to the solemnization of the marriage.

(g) The Minister shall record in the proper register the date and place of the marriage, the names of the parties and their parents, the ages of the parties, their residence, and their Church status, and the witnesses, and the Minister shall sign the record.

III. It shall be within the discretion of any Minister of this Church to decline to solemnize any marriage.

IV. No Minister of this Church shall solemnize any marriage except in accordance with these Canons.

II. *Resolved*, (the House of . . . concurring), That the present Canon 17 be amended to read:

CANON 17

OF REGULATIONS RESPECTING HOLY MATRIMONY

Sec. 1. The provisions of this Canon shall apply only to active members of this Church in good standing.

Sec. 2. (i) Any person, being a member of this Church in good standing, whose marriage has been annulled or dissolved by a civil court of competent jurisdiction, and any person, being a member of this Church in good standing, who desires to marry a person whose marriage has been annulled or dissolved by a civil court of competent jurisdiction, may apply to the Bishop or ecclesiastical authority of the Diocese or Missionary District in which such person is domiciled, for a judgment as to his or her marital status in the eyes of the Church, or for permission to be married by a Minister of this Church, provided one year shall have elapsed since the entry of the judgment of said civil court.

(ii) The Bishop or ecclesiastical authority, being satisfied that the parties intend a true Christian marriage, or that the applicant in good faith desires a judgment, shall refer the application to a court or to advisors (hereinafter called the Court) constituted and prescribed for that purpose by Canon of the Diocese or Missionary District, which shall proceed to receive such evidence as the applicant and any other person permitted by the Court to do so shall present, and thereupon render an advisory opinion in writing upon the law and facts to the Bishop or ecclesiastical authority.

(iii) The Bishop or ecclesiastical authority, proceeding then in accordance with the canon law, shall render judgment in writing to the applicant.

(iv) If all the members of the Court do not concur in its opinion the Bishop, or ecclesiastical authority, upon receipt thereof, shall transmit the record, together with an opinion of the Chancellor of the Diocese or Missionary District, to the Commission hereinafter constituted.

(v) The Bishop or ecclesiastical authority in such case, may in his discretion defer his judgment until receipt of the opinion of the Commission on Holy Matrimony.

(vi) There shall be a permanent Commission on Holy Matrimony of this Church appointed triennially by the Presiding Bishop by and with the advice and consent of the House of Bishops and consisting of three presbyters and two laymen, learned in the canon law, who shall hold office for three years and be eligible for reappointment.

(vii) The Commission on Holy Matrimony, upon receipt of the record in any application as provided in subdivision (iv) hereof, shall review the same and render its opinion in writing to the Bishop or ecclesiastical authority.

(viii) Each opinion of the Commission on Holy Matrimony rendered under this Canon by the Commission shall be printed, omitting the names of the applicant and all other parties and witnesses, and a copy sent to the Bishop or ecclesiastical authority of each Diocese and Missionary District.

(ix) The Bishop or ecclesiastical authority shall take care that his or its judgment is based upon and conforms to the doctrine of this Church, that marriage is a physical, spiritual and mystical union of a man and woman created by their mutual consent of heart, mind, and will thereto, and is lifelong; but when facts are shown to exist or to have existed which manifestly establish that no marriage bond as the same is recognized by this Church exists, the same may be declared by proper authority.

(x) Every judgment rendered under this Canon shall be made a matter of permanent record in the archives of the Diocese or Missionary District.

(xi) Any person in whose favor a judgment has been granted under the provisions of this Canon may be married by a Minister of this Church.

III. *Resolved*, (the House of . . . concurring), that Canon 44 be amended by inserting the following Sec. 2 (b) and the succeeding subsections lettered accordingly: "Every Minister in charge of a congregation shall give, or cause to be given, to both adults and children, regular instruction in the relation of the Church and the family; which instruction shall include the duties and responsibilities of membership in a family, the mutual obligations and privileges of spouses and of parents and children, and the Christian doctrine and discipline of marriage, together with the particular ministrations of the Word and Sacraments and the work and worship of the Church of which the family and its members have need for the fulfilment of the Christian life."

IV. *Resolved*, (the House of . . . concurring), that Canon 44 be amended by inserting the following Sec. 2 (c) and the succeeding subsection be lettered (d) "Every Minister in charge of a congregation shall, in exercising his pastoral ministry, take care to make the family a basic unit and objective of his effort."

V. *Resolved*, (the House of . . . concurring), that Canon 15, Sec. 2, be amended to read as follows: "When a person to whom the sacraments of the Church shall have been refused, or who has been repelled from

the Holy Communion under the Rubrics, or who desires a judgment as to his status in the Church, shall lodge a complaint or application with the Bishop, or ecclesiastical authority, it shall be the duty of the Bishop, or ecclesiastical authority, unless he or it sees fit to require the person to be admitted or restored because of the insufficiency of the cause assigned by the Minister, to institute such an inquiry as may be directed by the Canons of the Diocese or Missionary District, and should no such Canon exist, the Bishop or ecclesiastical authority shall proceed according to such principles of law and equity as will insure an impartial decision; but no Minister of this Church shall be required to admit to the Sacraments a person so refused or repelled, without the written direction of the Bishop or ecclesiastical authority.

VI. *Resolved*, (the House of . . . concurring), That Canon 15 be amended by inserting the following new Section 3 (a): "When marital unity is imperilled by dissension, it shall be the duty of either or both parties, before contemplating legal action, to lay the matter before a Minister of this Church; and it shall be the duty of such Minister to labor that the parties may be reconciled."

VII. *Resolved*, (the House of . . . concurring), that since the matter is covered by Resolution V the present Section 3 of Canon 15 be repealed.

VIII. *Resolved*, (the House of . . . concurring), that this Convention recommends to the Bishops and Clergy of this Church that before solemnizing any marriage they require the parties thereto to sign the following statement signifying their understanding of the Church's doctrine regarding marriage and their intention to be faithful to it:

"We A.B. and C.D. desiring to receive the blessing of Holy Matrimony in the Church, do solemnly declare that we hold marriage to be a lifelong union of husband and wife as it is set forth in the Form of Solemnization of Matrimony in the Book of Common Prayer. We believe it is for the purpose of mutual fellowship, encouragement, and understanding, for the procreation (if it may be) of children, and their physical and spiritual nurture, for the safeguarding and benefit of society. And we do engage ourselves, so far as in us lies, to make our utmost effort to establish this relationship and to seek God's help thereto."

IX. *Resolved*, (the House of . . . concurring), That this Convention direct and it does hereby direct the National Council, through its Divisions of Christian Education, and Christian Social Relations, in cooperation with such other agencies as may be involved, and in consultation with the Commission on Holy Matrimony, to prepare suitable guides for the preparation of persons for Holy Matrimony, offices of instruction on the nature of Christian marriage, the responsibilities and duties of family membership, and the doctrine and discipline of this Church in regard to Holy Matrimony, and to use every effort to obtain the use of such material in the parishes and missions of this Church.

RIGHT REV. CAMERON J. DAVIS, *Chairman*
 RIGHT REV. HOWARD R. BRINKER
 RIGHT REV. CHARLES CLINGMAN
 RIGHT REV. RICHARD A. KIRCHHOFFER
 RIGHT REV. WILLIAM SCARLETT

REV. STEPHEN BAYNE, JR., *Secretary*
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 ETHAN A. H. SHEPLEY
 CHARLES F. WILSON, *Treasurer*
 MRS. HENRY HILL PIERCE
 MRS. FRANCIS B. CLARKSON

Consultants:

RIGHT REV. ARTHUR B. KINSOLVING
 REV. OTIS RICE
 REV. HOWARD C. ROBBINS

APPENDIX 28

REPORT OF THE JOINT COMMISSION ON CHURCH MUSIC

"Resolved, The House of Deputies concurring, that the eighth Report of the Joint Commission on Church Music be accepted; that the texts in the list of musical compositions therein recommended be authorized for use in the services of the Church, and that the Commission be continued." (Journal of General Convention, 1943.)

MEMBERSHIP OF THE COMMISSION

The Rt. Rev. James DeWolf Perry, D.D., *Bishop of Rhode Island, Chairman*
 The Rt. Rev. Ernest M. Stires, D.D., *Retired*
 The Rt. Rev. Lewis B. Whittemore, D.D., *Bishop of Western Michigan*
 The Rev. A. Vincent Bennett, D.D., *of Western Massachusetts*
 The Rev. Walter Williams, *of Colorado*
 The Rev. John W. Norris, *of Vermont*
 The Rev. Emmett P. Paige, *of New Jersey*
 The Rev. Theodore P. Ferris, D.D., *of Massachusetts*
 The Rev. Peter R. Blynn, *of Massachusetts*
 Wallace Goodrich, Mus. Doc., *of Massachusetts, Secretary*
 Channing Lefebvre, Mus. Doc., *of New Hampshire*
 Adolf Torovsky, *of Washington*
 David McKay Williams, Mus. Doc., *of New York*
 Nicholas Rutgers, *of New Jersey*
 H. Everett Titcomb, *of Massachusetts*