

COMMENT: I

THE CHURCH OF ENGLAND AND DIVORCE*

DIVORCE in Britain, a trickle in the second half of the nineteenth century, has become a flood which has already done irreparable harm to the national life and threatens to do still more in the future. The Anglican attitude to this evil is often criticized as ambiguous and inconsistent, but it is only fair to recognize that the corporate influence of the Church of England has been, and still is, a real and important check to the further spread of this erosive tide of divorce. While most non-Catholic bodies in England have long since ceased to offer any effective resistance to the practice, the Church of England continues, in the face of ever growing criticism, to maintain her ban on the re-marriage in her churches of divorced persons who have a former partner still living. This ruling has been lately reaffirmed by an Act of Convocation.

There is no doubt that the Established Church's official disapproval of remarriage after divorce has had a considerable influence on public opinion, and has been one of the main factors retarding the spread of divorce in England and protecting the Christian ideal of marriage. Although only a relatively small number of Englishmen are still practising Anglicans, a large proportion still call themselves 'C. of E.'. Even those who are no more than 'four-wheeler Christians'—those, that is, who only go to their parish church in a pram to be christened, in a white-ribboned car to be married and in a hearse to be buried—still own a vague allegiance to the national Church and manifest a rather embarrassed respect for it on the solemn occasions of life, private and public.

The fact that the local Anglican vicar will usually refuse to allow a divorced person to remarry in his church brings it home in a tangible way to people of little or no religious practice that there is not only something not quite respectable about such a marriage, but even something not quite right. Cherished family traditions, together with the surviving legacy of Christian ways of

* We reprint this COMMENT from *Unitas*, the International Quarterly Review of the Unitas Association, by kind permission of the Editor.

thought and conduct, explain why most English folk still want the ceremonial of a church wedding, and to be denied it can be a very real sanction. If a certain social and moral stigma still attaches to divorce in many quarters, it is to a large extent due to the official attitude of the Church of England.

The courageous and much-publicized decision of Princess Margaret, the Queen's sister, not to marry a divorced man because it would be contrary to the Church's principles was a striking testimony to the power which Anglicanism still retains to uphold the sanctity of the marriage bond.

But there is another side to the picture. Divorce has by now acquired a strong vested interest, as it were, in the British social order. The law of the land provides relatively easy means for obtaining it, and what the State law allows the State church has no legal power to prevent. The civil divorce law, it is true, allows a Church of England incumbent the right to refuse to marry divorced persons, but it equally gives him the right to conduct such marriages if he feels so disposed, even against the will of his ecclesiastical superiors. Of this right a number of 'liberal' clergymen avail themselves, and the Church of England has no legal or canonical power to call them to order.

So many people, especially among the more influential and articulate sections of the nation, are now divorced, or are married to divorced persons, or have close relatives and friends who have remarried after divorce, that there is a powerful and increasing force of public opinion in favour of the practice and openly hostile to those who condemn it on moral and religious grounds. For many of these the decision of Princess Margaret seemed to be an implied criticism of their own conduct, and the Church of England, to whose teaching the Princess had declared herself loyal, was singled out as the target for their hostility. Newsreels showing the Archbishop of Canterbury, who was known to have advised the Princess, were hissed in London cinemas, and ever since that time a constant sniping at the Anglican bishops (with the motive often disguised) has been kept up by certain sections of the press.

Everyone in England knows, of course, that the Roman Catholic Church condemns divorce, but since Catholics are considered to be strict and strange in many ways, and since their discipline within their own fold does not have the same general

social impact as the policy of the Established Church, their attitude does not arouse the same indignation. It would be shameful indeed if Catholics indulged in any *Schadenfreude* at this unpopularity of their Anglican brethren; rather we should give due honour to the many Anglican churchmen and layfolk who are fighting what is also our battle, and who are incurring this odium in defence of the sanctity of marriage.

More disquieting, however, than this secular hostility, are the unmistakable signs that within the Church of England itself forces are at work which threaten to undermine its defence of the marriage bond.

Although the Convocations almost unanimously reaffirmed the canon forbidding remarriage after divorce, that unanimity by no means extends to the reasons for which the various parties assent to the traditional policy. On the one hand an influential party, who are called the 'Rigorists' by their opponents and who draw much of their strength from the ranks of the Anglo-Catholics, uphold the indissolubility of marriage as being the clear teaching of Christ, recorded in the Gospel and witnessed to by the main Christian tradition. For these, remarriage during the lifetime of a former partner cannot be a true and valid marriage, but is an objectively sinful union. This group hold that to rescind the Church of England's present discipline would be a betrayal of essential principles. Many others, however, especially among the Evangelicals, dissent from what they consider the too legalistic approach of the 'Rigorists'. While agreeing that Christ's intention was that marriage should be a lifelong union, they do not consider that his teaching rules out the possibility of exceptions in hard cases. They agree that it is right for the Church of England to express official disapproval of divorce in her pastoral discipline, but they do not wish to pass a moral judgement on all subsequent remarriage. They prefer not to distinguish between 'valid' and 'invalid' marriages, terms which savour of legalistic and Romish notions, but rather between marriages which are spiritually successful or failures. In this view, as one writer puts it, 'divorce is not impossible but wrong, and a second marriage, if based on penitence for the failure of the first, can be built into a true Christian marriage. Just as the murderer has really killed his victim, and cannot bring him back even by repentance, so the divorced person has really killed his marriage, and is not commit-

ting a new sin by marrying again.¹ According to this way of thinking, the present Anglican prohibition of remarriage in church is merely a matter of pastoral discipline to safeguard the stability of marriage and to discourage divorce, so there would be no objection in principle to rescinding it if pastoral developments indicated the need for change. Many of those who hold this view think that such a change is now due. This 'pastoral' party has already won a significant success for their policy by getting Convocation to agree, under certain conditions, to the admission to the Holy Communion of people who have contracted a second marriage after divorce—a decision which marked a serious weakening in the hitherto firm policy of the Church of England.

The frontiers between these two groups do not always follow the usual lines of party cleavage, and there is a third force which seeks above all to prevent the division from becoming too sharply defined. The Archbishop of Canterbury's deft chairmanship well illustrates this attitude. These middle-of-the-road Churchmen while inclining to the first opinion do not gainsay the second. They prefer to avoid dispute about the doctrinal issues, and urge that the wisest policy for the present is the maintenance of the *status quo* and loyal acceptance of the time-honoured Anglican usage.

Both within and outside these main groups there are many other varying shades of opinion. The teaching of some Anglo-Catholic theologians, who hold that Christian marriage is a sacrament, is practically the same as that of the Catholic and Roman Church, and they defend the Western tradition with vigour and learning. They favour the introduction of matrimonial courts in the Church of England to decide questions of nullity and similar cases. At the other extreme are modernists who defend divorce and who assert that even if the Gospel test could be accepted as a genuine and reliable record of Christ's words on the subject, there is no assurance 'that the historical Jesus was always infallibly right'.

A few Anglicans propose a 'double standard': one for Christian marriage, which should be indissoluble, another for secular marriage which should be legitimately dissoluble by the civil power. Protestant-minded Churchmen are naturally influenced by a feeling of solidarity with the other Reformed Churches of Europe, almost all of which admit remarriage in church after

¹ *Theology*, August 1957, page 312.

divorce. Some Evangelicals are sincerely persuaded that Christ's words in the Gospel allow divorce in the case of marital unfaithfulness. Others admit that his theoretical ruling permits no exceptions, but claim that in practice he himself would be the first to mitigate its severity out of pity for unhappy souls whose first marriage has failed and who seek a new start in a second union. Others again say that his words in their context indicated the highest standard of Christian perfection, but were not meant to be taken as legislation to bind all, weak and strong alike.

The 'liberal' Churchmen are critical of Convocation as being unrepresentative of the broad mass of opinion in the Church of England, and like to draw a distinction between the narrow and outdated policy of official Anglicanism and the human and realistic attitude of the more progressive clergy and laity. Assured of popular support from the large class who resent the stigma still attaching to the divorced, they aim at a reversal of the present prohibition of remarriage in church, which in any case they do not regard as binding on themselves. Achievement of their aim would be quite possible if they could win the active support of the 'pastoral' party who accept the present discipline on grounds not of doctrinal principle but of practical expediency. This party are already showing themselves sensitive to the accusations of legalism and intolerance, and to the pleas for compassion and broad-mindedness. Even without a formal revocation, the official ban could in time be rendered ridiculous and ineffective if a sufficiently large number of clergymen exercised their statutory right to disregard it.

In recent months these internal tensions have become openly apparent. The event which brought the controversy to a head was the marriage of an Anglican vicar in the diocese of Worcester to a divorced woman whose first husband was still living. The ceremony was performed by another Anglican incumbent, who had made a practice of conducting the marriages of divorced people in order to demonstrate the legal right of clergymen to do so. With the disapproval of his bishop but with the support of many of his parishioners the newly married clergyman announced his intention of retaining his living, thereby setting a new precedent. The press naturally made the most of this titbit of news, which seemed to give the lie to the official Anglican policy.

'Is there no discipline in our Church, no authority by which

such an act can be condemned?' asked an indignant correspondent in the *Church Times*. The editor of the *Church of England Newspaper*, on the other hand, saw a chance to make capital out of the affair at the expense of the 'Rigorists':

'One pernicious myth', he wrote, 'has been exploded. It has often been maintained with more zeal than honesty that remarriage after divorce is contrary to the law of the Church. That can no longer be said with even the appearance of plausibility.'

Four days later the Archbishop of Canterbury, in his presidential address to the Convocation of the southern province, retorted:

'But indeed it can be said and must be said, because it is true. Remarriage after divorce, whether in church or not, is allowed by the law of the land. The law of the Church in the matter was last expressed in the canons of 1603, which expressly laid down that the parties separated by divorce "shall not during each other's life contract matrimony with any other person". That is still the law of the Church. It has been over-ruled and outdated by the law of the land, but not changed.'

The Archbishop proceeded to promulgate as an Act of Convocation its previous resolutions concerning remarriage and divorce. Next day the Lower House of Convocation, with only one dissident, passed a resolution of 'warm support' for Dr Fisher's statement and action.

The 'liberals' and their allies, however, were far from satisfied, and took special exception to one remark of the Primate. While admitting that, in the face of statute law behind which insubordinate clergymen could shelter, the Church of England could apply no canonical sanction to call them to order, he had warned them that 'in a matter of such public and pastoral urgency priests who disobey these regulations of Convocation do so at their own spiritual peril'. This hint of spiritual sanctions, overriding the law of the land by which the Church of England is established, drew indignant protests. Among these was a letter to the press signed by thirty-nine clergymen of the diocese of Birmingham, asserting that the 'liberal' attitude to remarriage after divorce had wide support in the Church, and declaring that they 'strongly resented the Archbishop appearing to give that Act of Convocation the semblance of Papal authority'.

'Does the Archbishop realize', they asked, 'the deep distress

he has caused to many clergy and laity by calling up the bogey of "spiritual peril" to frighten the clergy from exercising what is their undoubted legal and moral right?

The Archbishop replied to his critics, withdrawing the offending phrase about 'spiritual peril' but repeating his insistence that the Church's official directions ought to be loyally observed.

Since then the debate has continued in the press and in private, in the Church Assembly, in diocesan conferences, in parishes and in the country at large. The controversy about remarriage has been extended to include wider issues, such as the status of Convocation, the concept of spiritual authority in the Church of England, and the relations between the Established Church and the State. These developments cannot fail to have repercussions on the delicate matter of the revision of the obsolete canon law of the Church of England, now in active preparation. One of the committees set up for the 1958 Lambeth Conference is concerned with 'The Family in Contemporary Society', and it will be interesting to compare the comments of Churchmen from other branches of the Anglican communion, where the social pattern is often very different from that in Britain.

One thing seems certain; that the pressure to obtain a change in the marriage discipline of the Church of England will grow greater in the years ahead, rather than less. Any further weakening of that discipline would result in a further weakening of the moral health of the nation as a whole. Catholics will surely assist with their prayers and sympathy the group of Catholic-minded Anglicans who are the real strength of the defence of the traditional standards, and who are maintaining, in the face of misrepresentation and unpopularity, the true Christian concept of marriage.

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