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ARTICLE IV.

THE HOLY SCRIPTURES AND DIVORCE.

BY THE REV. NOAH LATHROP, A.M.

IN all matters of morals and law, it is impossible to overestimate the importance of correct teachings. The Bible is the text-book of Christian doctrine and morals, and the basis of Christian civilization. What therefore it enjoins or permits is of inexpressible importance to the framer of church canons and the enactor of civil statutes.

As the social fabric is based almost wholly upon the domestic status of the people, marriage cannot be too sacredly guarded. The danger lies altogether in the opposite direction. Our inquiry therefore is, What do the Holy Scriptures teach on this all-important subject?

It appears plain from the nature of the institution, as well as from Scripture teaching, that marriage was intended to be permanent, *indissoluble except by death*. At its institution it was said, "A man shall leave his father and his mother, and shall cleave unto his wife." The Christ, in commenting upon it, adds, "And they twain shall be one flesh. . . . What therefore God hath joined together, let not man put asunder." The apostle Paul also teaches in substance the same doctrine.

When men live according to this divine ideal, "*Marriage is*," indeed, "*honorable in all*." Of it we may say, with one of our sweetest Christian singers,—

"Thou art the nurse of virtue. In thine arms
She smiles, appearing, as in truth she is,
Heaven-born and destined to the skies again.
Thou art not known where pleasure is adored,

That reeling goddess with the zoneless waist
 And wand'ring eye, still lingering on the arm
 Of novelty, her fickle, frail support;
 For thou art meek and constant, hating change,
 And finding in the calm of Truth-tied Love
 Joy that her stormy raptures never yield."

It is found, however, that in this, as in some other relations of life, some refuse to fulfil the duties incident thereto. The Scriptures indicate what, in such cases, church and state may do in the premises. "The law [that is, the civil code and church canon] was not made for a righteous man, but for the lawless, . . . for whoremongers, for . . . any other thing that is contrary to sound doctrine."¹

What sins put asunder what God hath joined together? What is the province of church discipline, and what should the civil authority do, when such sins are committed? The civil authority is "*the minister of God to execute wrath upon him that doeth evil.*"²

Many interpreters believe that Jesus settles these questions definitely, fully, for all possible cases, and for all time. They assume that he treats the subject exhaustively, and that there is only one sin that can break the marriage bond. To this view we object, as *unwarranted by either reason or Scripture*. Jesus did not act as legislator, or civil administrator, or even as a framer of church canons; but only as teacher and saviour. In one instance at least he directly refused to act as "*judge or divider.*"³ "This passage," says Alford, "may show the essential difference of the two offices of Moses and Christ."

We are told that adultery only can dissolve the marriage bond, and that this is in accordance with the declarations of Christ. The Protestant Episcopal and Methodist Episcopal churches take this ground, and forbid their clergy to "solemnize marriage in any case where there is a divorced wife or husband living; but this rule shall not be applied

¹ 1 Tim. i. 9-10. ² Rom. xiii. 4. ³ Luke xii. 13-14.

to the innocent party to a divorce for the cause of adultery, nor to divorced parties seeking to be reunited in marriage."¹ We admit, of course, that adultery dissolves the marriage bond; but it is unfortunate, for the advocates of the above view, that neither Moses as legislator nor Jesus as teacher anywhere gives us to understand that adultery is *in any case a ground for divorce*. If, therefore, Jesus limits divorce to one sin, *adultery is not that sin*.

The Jewish law under which Jesus lived as loyal citizen, which he came not to abrogate but to keep,² is clear and explicit in reference to adultery, and the invariable penalty attached to its commission was death to the transgressor;³ while in Job we are informed, that in his day it was considered "*an iniquity to be punished by the judges.*"⁴

With the law of Moses, Jesus (so far as he expressed himself upon the subject) agreed. We have an illustrative case. A woman was brought before him of whose guilt there seemed to be no question. Her accusers say, "Moses in the law commanded that such should be stoned: but what sayest thou?"⁵ Mark the import of his answer. Moses gave you a good law. You who have kept his law fully, may begin the execution of the penalty. The remains of conscience in the accusers, not lack of sanction by Jesus, stopped the proceedings.

"*But does not our Lord say, Whosoever shall put away his wife except it be for adultery?*" Many seem to think he does. I have been asked the question more than once, and in some cases by ministers of prominence in the church. The answer of course is, No! *Nowhere in the book!* Strange that men read into a document what it does not contain, and then try to explain it, rather than ascertain what it does say and, if authoritative, conform

¹ Discipline of Methodist Episcopal Church, ¶ 39.

² Matt. iii. 15; v. 17-18. ³ Lev. xx. 10; Deut. xxii. 22.

⁴ Job xxxi. 9-12. ⁵ John viii. 3-10.

their creeds thereto. Both the scope and the meaning of the Lord's words seem to have escaped many interpreters, and church dogma has been substituted for sound exegesis.

The Pharisees presented Jesus this problem: "Is it lawful for a man to put away his wife for every cause?"¹ It was a question by Jews to a Jewish citizen of some note as a teacher, as to what was lawful under their statutes. "The question agitated by the Jews was not for what causes occurring after marriage is divorce justifiable, but for what reasons existing prior, but discovered subsequently to marriage, may a man put away his wife. It was with this last inquiry only that they came to Christ, and to this, therefore, is his answer applicable."² The answer is clear and explicit, and goes to the foundation of the marriage relation, showing its sacredness, and also just what was lawful according to the Jewish statute in such cases made and provided. We may paraphrase his answer thus: "Have ye not read, that in the beginning God made man male and female (positive and negative, counterparts, bivalves), for this cause a man shall leave his father and his mother (from whom he grew), and shall cleave to (*literally be glued to*) his wife; so that they are no more two but one? Therefore (the bivalves being united, the boards from different trees glued into one piece), what God hath so cemented together, let no man break apart."³

The Jewish law of divorce reads thus: "When a man hath *taken* a wife, and *married* her, and it come to pass that she find no favor in his eyes, because he hath found some uncleanness in her; then let him write her a bill of divorcement, and give it in her hand, and send her out of his house. And when she is departed out of his house, she may go and be another man's wife." A further provision is, that "if the latter husband hate her, and write her a bill of divorcement, . . . or if the latter husband

¹ Matt. xix. 3. ² Asa Mahan, Moral Philosophy. ³ Matt. xix. 3-6.

die, . . . her former husband . . . may not take her again to be his wife.”¹ In other words, “*Divorced parties seeking to be reunited in marriage were, under Jewish statute, specifically forbidden.* Other laws show us, that, though a woman with a bill of divorcement in her hand might lawfully become the wife of another man, she might not become the wife of a priest, as he was directed to marry no woman, except *a virgin of his own people*, or a widow that had a priest before.”²

The two parts to the marriage ceremony need to be carefully considered, also the force of the phrase “and it came to pass,”—the *taking* (in betrothal) and the marriage proper. Often a considerable period elapsed between these events; in the case of Jacob it appears there were seven years. The phrase “and it come to pass” evidently implies something discovered after marriage. The Pharisees were not agreed as to the scope of the phrase “some uncleanness” in the law. One school held that it was of wide range, covering anything that might be displeasing, i.e. every cause; another, that it referred only to acts of unchastity. We have seen that it could not refer to adultery, as its punishment was provided for by another law.

When a virgin was betrothed, her chastity was pledged. When her marriage took place, if it was found that she had not maintained her chastity, there was open to the aggrieved husband, by the court practice, either of two courses. He might expose her before the judges of the people, and cause her to be put to death; or he might “write her a bill of divorcement.” The law was, however, so framed as to carefully guard her from hasty and unjust accusation. If the man on consummating his marriage falsely brought an evil name upon a woman of Israel, saying, I married this woman and found her unchaste, he was

¹ Deut. xxiv. 1-4.

² Lev. xxi. 7, 14; Ezek. xliv. 22.

to be heavily fined, publicly chastised, and compelled to keep her as his wife all his days.¹ That the law did give such discretion is illustrated in the New Testament by the case of Joseph and Mary. They were betrothed, but the marriage had not been consummated. He was led to apprehend that she had been unfaithful. "Being a just man, and not willing to make her a public example," by having her stoned,² he was minded to avail himself of the other alternative by writing her a bill of divorcement.³ While meditating upon the matter, he was divinely informed, that in her case was to be fulfilled the prophecy of the ancient Scripture, "A virgin shall be with child, and shall bring forth a son."⁴ He therefore proceeded with the marriage.

Two things are now clearly apparent: 1st. Adultery was punished by death; 2d. Unchastity of a betrothed virgin discovered after her marriage was the only ground for divorce so far as Jewish statutes provided, and so far as the teachings of Christ treat upon the subject, and to this view his answer to the Pharisees exactly corresponds. The distinction between adultery and fornication is carefully maintained, as it was in the statutes of Moses and is in the law language of to-day. The Greek word used by Christ is, so far as I can ascertain, never used in the LXX, the New Testament Greek, nor in classic Greek to mean adultery. It is descriptive of unchaste conduct of unmarried persons only. He who, says the Saviour, puts away his wife, except it be for unchastity prior to marriage, and marrieth another, commits adultery, because he is still in fact and law a married man; and he who marries one thus illegally divorced commits adultery, because he takes to himself one who is still in law a married woman. "Our Lord here indicates no new law. He does not even restore

¹ Deut. xxii. 13-21. ² Deut. xxii. 23, 24.

³ Deut. xxiv. 1. ⁴ Matt. i. 18-25; Isa. vii. 14.

the old one. He simply *declares* what has always been the law of God."¹

"Now it by no means follows, as a necessary consequence, that because but one form of crime committed before marriage justifies the party offended against in seeking a divorce, that but one form perpetrated after its consummation justifies the same thing."² This will appear the plainer when we reflect that "*Jesus* [only] *began to do and to teach*"; that he had many other things to teach which they were then too immature to receive, but that, through the teachings of the Spirit, he would later lead them further on, and "*guide them into all truth.*"³

Through Paul and other writers, inspiration gives us other matters, so that we have a PROGRESS OF DOCTRINE unto the close of the New Testament canon. This very question, Marriage and its dissolution by sin, was treated by Paul in answer to the church at Corinth. Some years ago a writer in one of the great church weeklies undertook the task of harmonizing Paul and Jesus on the principle, That "an obscure text must not be so interpreted as to contradict a plain one." The principle is good, but has no application here; for, studied without preconceived opinions, one is not plainer than the other, and there appears no contradiction. "SPEAK I—with an apostolic and inspired authority, supplementing what THE LORD has in express words said. It is a very mistaken perversion of the apostle's words which imputes a mere human authority to his injunctions, in contrast with the Lord's words. His real antithesis is between the Lord's *recorded* words, and his own apostolic words given by the Lord's inspiration."⁴

Reading the passage entire, we learn that a Christian may not desert an infidel companion who is willing to

¹ Whedon, Matt. xix. 9. ² Mahan, Moral Philosophy.

³ Acts i. 1; John xvi. 12-13. ⁴ Whedon, 1 Cor. vii. 10-17.

abide faithful to the marriage relation. But suppose the infidel deserts the Christian; what then is the state of the case? "*A brother or a sister is not under bondage in such cases.*" "Obviously, therefore, the only meaning is, that though the Christian may not dissolve the marriage tie, the infidel may."¹ Many of the older expositors, as Calvin, Grotius, Rosenmuller, Luther, and Zwingli, and many moderns, as DeWette, Meyer, Alford, Wordsworth, Pope, Raymond, and others, agree in this interpretation; while Dr. Hodge, one of the greatest theological writers of the age, explicitly says: "If the unbeliever is not willing to remain, the believer in that case is not bound, i.e. bound by the marriage compact. In other words, the marriage is thereby dissolved. This passage is parallel to Romans vii. 2. The apostle there says, a wife is bound by the law to her husband so long as he liveth; but, if the husband be dead, she is loosed from the law of her husband. So here he says, a wife is bound to her husband if he be willing to remain with her; but, if he deserts her, she is free from him. That is, wilful desertion annuls the marriage bond. . . . Why does death dissolve marriage? It is because it is final separation. So is desertion. . . . As adultery is a crime, so is desertion; and both should be punished."

The deserted one then is free. The deliberate, wilful deserter *is dead to the deserted*, and the faithful is as free as though the other were *literally dead and in the grave*. Can there be any righteousness or propriety in a church canon or civil statute forbidding the full legal divorcement of the innocent from the guilty? No more than there would be in a law forbidding a widowed spouse the right to bury the dead out of sight and seek a living love. Should it be said, Paul treats of a case in which one party is a Christian and the other an infidel, the answer is, Paul

¹ Whedon, ver. 15.

also says, The Christian who neglects to provide for his own "is worse than an infidel."¹ Certainly it will not be held that he has rights greater than the infidel!

It seems clear that neither Jesus nor Paul is treating the subject of marriage and divorce in an exhaustive manner, but each a phase of the subject referred to him by inquirers, and each under different conditions. These, therefore, are sample or specimen cases under the general law. If there be any other crimes that, like these, outrage justice, they also would unquestionably outlaw the guilty and free the innocent. What then is the law? It is the same as the law in any other case of flagrant wickedness. The able writer already quoted states it thus: "It is a universal principle in respect to all law, human and divine, that when an individual wantonly tramples upon a given law, he forfeits all claims to the protection of that law, and to the interests which it was designed to promote. No reason can be assigned why the law of marriage should be an exception to this principle."²

Judge Hiram L. Sibley, of Ohio, argues this proposition: "*That adultery, desertion, or any other acts of husband or wife which, like them, would plainly and palpably defeat the essential ends of marriage, and deny to the innocent party and to society the rights of marriage, if its obligations were held indissoluble, may righteously be recognized by the church, and made by the state, a cause for divorce from the marriage bond.*"³ He further argues, "If Christ, and by parity of reasoning St. Paul, was stating the law of divorce simply with reference to the case before him, then, as Bucer . . . says, it seems a wickedness so to wrest and extend the answer of either as to make them a law of absolute limitation, instead of examples which clearly show the application of a great truth, that acts which, like these, *violate the primal law of marriage and defeat*

¹ 1 Tim. v. 8. ² Asa Mahan, *Moral Philosophy*. ³ Italics his own.

its objects, are valid cause for divorce. Who, for example, in the face of the intelligence and conscience of Christian civilization, can stand up and say, that a pure and innocent wife whose husband is confirmed in the habit of beastly intoxication, shall not only be legally bound for life to such a body of death; submitting to drunken abuse and peril to person and life incident thereto, but also be compelled by him to bring into being congenital idiocy, or some other monstrosity, moral or physical, of alcoholism?" Who indeed could? Can any one believe the purity-seeking Jesus ever sanctioned a principle fraught with conclusions so dire?

Judge W. J. Gaynor, of the Supreme Court of New York, made a few years ago the following decision: "A wife may well refuse to live with a husband addicted to the drinking habit to the extent shown, and she may avoid the degradation of her body by such a husband, and has also the right to be apprehensive of the physical health of children that may be conceived under such circumstances." "It was claimed by the friends of the husband, that, unless the wife could show absolute physical cruelty toward her on the part of her husband, she could not lawfully refuse to live with him, however much of a drunkard he might be."¹ The Judge, however, took a different view. We believe the decision of his Honor to be both scriptural and legal. The drunken debauchee should be forever prohibited from marrying again. Indeed, all such as wantonly trample upon this fundamental law of society, should be given to understand that they have committed HIGH TREASON AGAINST HUMANITY, and forfeited not only the benefits of the marriage law, *but of liberty itself.* They will cease then to intrigue to be freed from one bond, seeing they cannot form another. It is the too easy method of dealing with transgressors, rather than the number of

¹ Quoted from Law Journal, by New York Voice, Jan. 23, 1896.

causes for divorce, that is chargeable with the condition of society so deeply deplored by patriot, philanthropist, and Christian.

Adultery was in the ancient day parallel in penalty with murder, because it was parallel in its enormity. *It is no less a crime to-day.* Whatever penalty, therefore, Christian legislation finds it should visit on the murderer, it should also visit on the adulterer.

Because of wrong interpretation of the words of Christ, many shifts and concessions have been made. It would seem, however, that, if the interpretation be sound, the exceptions must be immoral. The only one we will now allude to is that of divorce from bed and board, but not from bond. "As long ago as the Duke of Norfolk's case, a famous state trial, an English bishop said, The distinction betwixt bed and board and bond is new, never mentioned in Scripture, and unknown to the ancient church. Lord Stowell speaks of it as casting the parties out in the undefined and dangerous character of a wife without a husband, and a husband without a wife! . . . The historian Bancroft, as punishing the innocent more than the guilty! While Mr. Bishop, the greatest legal writer upon the subject, justly characterizes it as a policy by which the injured, in mockery of redress, is kept under all the burdens of matrimony, and cut off from all its benefits."¹

Several things appear clear in the light of our investigations. Among them are these:—

1. The Holy Scriptures recognize adultery as one of the highest crimes that can be committed, but they nowhere mention it as a ground for divorce from marriage. Therefore those who claim that Jesus limits divorce to that crime speak without warrant.

2. Jesus was not a civil legislator, administrator, or judge, but, as Dr. Hodge says, "leaves the punishment of

¹ Judge Sibley.

. . . crimes to be determined by his disciples in their civil capacity." He was not even a formulator of church canons, but only a giver of great general principles.

3. The subject of divorce is not exhaustively treated by any teacher or writer of Holy Scripture, but two specific sins are mentioned which vitiate and dissolve the marriage bond,—one by Jesus, showing the scope of the statute of Moses; another by Paul, indicating Christian liberty in cases of desertion,—and these evidently are examples which show the application of a great general truth, that he who presumptuously despises, tramples on law, forfeits the benefits and protection of law. The principle is indicated in many places in Scripture.¹

4. We have found the bed-rock principle of justice and truth whereon to found ecclesiastical and civil legislation upon this vexed question.

¹ Ex. *xxi.* 14; Num. *xv.* 30; Heb. *x.* 26-29; 2 Pet. *ii.* 10-13.