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ARTICLE III.

THE DIVORCE PROBLEM: A RATIONAL RELIGIOUS VIEW.[1]

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DIVORCE is a comprehensive topic — includes much upon which comment is needed. But the space at command will suffer little more than hints and outlines. Method is needed more than matter. I had better express an opinion in the case, or on some prominent points in it, rather than to elaborate an argument and cite references. It ought not to savor of egotism for me to set forth the conclusions and convictions at which I have arrived, if I say that I wish no more force to be given to my opinions than there is force in the reason of them, express or implied.

SCRIPTURE DOCTRINE.

Lest we get swamped in particulars in the discussion, I wish to bring forward at once its final conclusion, and it is this, that the supreme wisdom covering the whole matter is in the nineteenth chapter of the Gospel according to Matthew. That wisdom is defensible before an a priori rationalism or an a posteriori pragmatism. It is defensible speculatively and practically. Anything else written or spoken by man may be set aside or lost and we shall have all we need for the guidance of the human race in the words of Jesus Christ as set forth in that chapter. I have no criticisms of that

[1] An address delivered before the students of Chicago Theological Seminary.

chapter either as to Greek text or translation. I take it as it appears in the accredited texts and in any of our commonly known translations or in the versions of any tongue. All these sources of information agree, and convey ideas easily and commonly understood in all their particulars.

The Scripture doctrine of divorce is very simple. After Christ's handling of the law of Moses on divorce, nothing remained of it unless you except what is covered by Christ's permission of divorce in case of adultery.

No other author in the New Testament treated of divorce *a vinculo*, i.e. divorce from the bond of matrimony with permission of marriage to another party. The better scholarship holds that Paul did not treat of such divorce at all; in fact, that Paul neither authorized nor encouraged any sort of divorce whatever.

Now I shall be told, "You give the traditional view." To which I reply, "Suppose I do give that view, what of it?" What if, after examination had, I conclude that the traditional view is correct? It ought not to detract from the force of my opinion that some one else agrees with me; in fact, that there has been a consensus of judgment through the centuries, and that it has constituted the history of the Christian church from the earliest times. Is one's opinion to be valued just because he disagrees with somebody or everybody else? The traditional view should have value because it is Christ's view, because it has made history, and because it is wholesome for mankind. What is held in the church "semper, ubique et ab omnibus," is entitled to respect, especially if it has been held in the face of a gainsaying and practising world. At law, precedent is not set aside just because it is precedent. One adds strength to the case he seeks to make, by showing its consistency with preceding rulings.

Some ways of making void the historic and the common understanding of Jesus' treatment of divorce need examination. It is said that Jesus spoke of a "private putting away," and not at all of statutory or judicial divorce, such as legislators and courts may decree. It is said that Jesus was not a legislator, and that he only set out principles for the regulation of the conduct of individuals. It may be asked on orthodox grounds, Why this extreme caution to keep Jesus out of the ranks of legislators? God is a lawgiver, is he not? If Christ is his accredited representative, why might not he be a lawgiver too? If anything is apparent on the face of the Gospels, it is that Christ marched hither and yon through Jewish custom and statutory law, knocking the underpinning out beneath them, no matter what tumbled. There are no less than six cases in the Sermon on the Mount in which Jesus declared Jewish law void — three of these cases standing in custom, or common law, and three in statute. Wrong stood no better with him because it was in law than in individual life. Custom makes common law. The days were few in which he did not set aside law.

In fact, just the matter that Jesus passed on in this nineteenth chapter was what arose or might arise under a statute. Just what the Jews pleaded was a statute, and just what Jesus said was that a statute could not cover up divorce — not even a statute of Moses — that there was a higher law behind him under which his legislation was abrogated. It is true that Jesus, "like Cæsar with a Senate at his heels," did not organize a legislature to repeal or enact laws, and that he did not set up a supreme court to pass on their validity. But what difference does it make whether Jesus repealed a law in form or said there should be no practice under it? In the latter case the law is just as dead as in the former. The latter he did do.

The Pharisees and the disciples so understood it, and it has been so understood by the Christian church through the ages. Saving one exception, hereafter to be noticed, Jesus cut up divorce, root and branch.

He *acted* very much like a legislator and a judge — if not for secular society, at least for his church. He laid down rules of practice for his followers that left human law without function. It is in vain to thrust in a legislature or a court between Jesus and the indissolubility of marriage. He said what God joined together in marriage *man* should not put asunder — not even if he pleaded a statute as sacred as a law of Moses to a Jew.

Another way of turning the force of the plain intent of this chapter is to claim that Jesus is not to be taken literally — that he was idealizing — that he meant to say if one found himself in a pleasant marriage relation, one which had in it evidence of the Divine approbation, he should not seek to break it up. The first thing that should be said is, that if Jesus wanted to speak thus he could have so spoken, but he did not. The next thing that may be said is, that this theory is not old enough to go alone. It is a birth of the last century, is a plain attempt at justification of the freedom of divorce which grew up in that century. It has no standing in history. It can show no support from apostle, father, or commentator of repute.

The fundamental misconception of modern thought on the matter at issue is this, sentiment in regard to marriage is made to obscure the foundation of the family on sex. That there ought to be sentiment in, and in regard to, marriage is greatly true. But one other thing is true, and that is that Jesus closed out the whole discussion about divorce without a reference to sentiment. Let us refer to Matt. xix. 4, 5, 6 (A. V.):—

"And he answered, and said unto them, Have ye not read, that he which made them at the beginning made them male and female?

"And said, For *this cause* shall a man leave father and mother, and shall cleave to his wife: and *they twain* shall be *one* flesh.

"*Therefore* they are no more *twain*, but *one* flesh. What *therefore* God hath joined together, let not *man* put asunder."

The whole matter was settled by Christ from the base of the physical difference of sex. Christ's *wherefores* and *therefores* all relate to that fact alone. It is time we did a little straight thinking on the fundamental fiat of God in regard to sex and marriage, and had some clear perception of what follows therefrom.

The family springs from the fact of physical difference of sex. Children are born because of that fact, and perhaps the most fundamental question in regard to divorce is whether children shall be family born or born of sex promiscuity or of such approximations thereto as divorce statutes or courts may allow. If a man has chosen a wife, and a woman chosen a husband, they have made an election under the Divine fiat in reference to sex — "What *therefore* God hath joined together, let not *man* put asunder." If that conclusion does not lie in the text of the Saviour, then nothing is inferable from human language.

The mystical or sacramental idea of marriage rests on the supposition of a Divine factor in it. There is, indeed, such a factor, but it antedates and surpasses any service of the church. The church is not a purveyor of the Divine element.

On the other hand, there is growing up a notion that marriage is a creature of social regulation — that society can make and unmake it. A statute is substituted for a sacrament. The family is not founded by society. It is founded by the choice of one man and one woman for each other grow-

ing out of the Divine creative fiat of sex. It takes only three parties to make a marriage — God and one man and one woman. Neither church nor state has anything to do with it, except to give it benison and to witness and protect it. The vision of common law is correct — whoever not in adultery *live* as husband and wife *are* husband and wife. Society should hold such parties to their own act. The fact of sex is an act of God. These facts are fundamental, and should never be lost to sight in reflection and discussion upon marriage. They should have controlling force in philosophy and practice.

Christ's rule, then, was definite, and was at the time definitely understood, in the same way both by Pharisees and disciples, and then it was enforced by the church through the centuries. So far from farming out to secular authorities the right to decide on cases of divorce, the church maintained its own supreme authority in the matter. Hence, in connection with other subjects but preëminently in this, there grew up the distinction between canon and civil law. The secular authorities might do what they pleased on divorce. The church stood by the rule of Christ, and made its own law upon it.

CHRIST'S EXCEPTION TO HIS RULE.

The exception will be found to be *rational,* and to give force to the rule. According to Matthew, in the fifth chapter, as also in the nineteenth, Christ said there might be divorce from the bond of matrimony in case of adultery. We shall have to deal with that exception as an utterance of Christ. It has manuscript authority behind it that cannot be gainsaid. If we are to hold that, according to Matthew, Christ said anything at all on divorce, we must hold that he made this exception, for it is twice, solid in the Greek text, and went over

into all versions. That matter may be regarded as *res adjudicata.*

A way to avoid admission of the exception is to throw it out of the text, because Luke and Mark do not have it. But when you find that Luke has but one short verse on the topic, and that Matthew has fifty more words in his account than Mark, you will see reason for putting Mark in the list with Luke and considering both as abbreviated accounts — not that Matthew has been padded with interpolations. When, further, it is considered that Matthew has the exception twice, you will conclude that it must be reckoned with as a genuine utterance of the Saviour. The argument against a well-supported text of one author (in this case two distinct texts) because of the silence of another is a dangerous weapon. You can put dynamite under the whole New Testament with it. You can throw out the whole of Matthew xix. because John has nothing corresponding to it. That gives destructive critics their whole contention. They can drive a coach and four, with outriders, front, flank, and rear, whithersoever they list. This argument *e silentio* is no older than the destructive critics of the last two centuries, and is taken from them.

Aside from its unimpeachable standing in manuscripts and versions the intense and immense rationality of the exception is muniment of title of highest authority.

Christ's exception will bear *rational analysis.* He must have made the exception, if he put marriage unity ultimately on the ground of the physical difference of sex — as he did. The rationality of Christ's exception is apparent. A married man who commits adultery has taken another woman into marriage relation to himself. Sex union is family act. Children may be born to adultery — are born to it. Not many years since a man died in this country who left, it was said, sixty

illegitimate children. If, now, you do not release the wife from the marriage bond, you compel her to live in polygamy (polygyny). She becomes the first inmate of a harem. The original family unity is gone. The wife has the right, it may be the *duty*, to say that she will not be part and parcel of polygamy, or of promiscuous cohabitation, which is the same thing.

A woman whose husband left her and cohabited with another woman was asked if she would receive him back. She said she bore him no ill will, but she did not marry to be No. 1 in polygamy. There spake the majesty of woman, wife, and mother. She brought up her children as any widow would. They became useful members of the church — one attained eminence in civic position.

A married woman who is guilty of adultery takes another man into family relation with herself. If you do not release the husband from the bond of matrimony, you compel him to live in a relation which is polyandry. If anything is plain, that is plain. It ought to be seen that Christ's exception is a necessary corollary from his rule. It is as implicit in the first answer as explicit in the second. The exception sheds light back on the primary principle with which he set out, to wit, the divinely made distinction of sex, and the family as the result of the choice of one male and one female of each other for life unity. Given the rule, the exception must have come; given exception, the rule is presupposed. It adds one more to the arguments for the divinity of Christ or for his divine legation, that his perception here is so true to the facts of the system he comes to interpret; to wit, *the right adjustment of moral beings in the physical system in which they have place.* You do not find him floating on clouds of sentimentalism. He regards *first fundamental physical* facts and speaks straight out

"For the God of things as they are."

Do you mark that Christ stopped with his answer to the first question of the Pharisees with the simple repetition of the primal statement (Gen. ii. 24) of basis of marriage in the choice of *two* persons of different sex of each other? With him in this matter that was not first which is spiritual, but that which is natural — physical. The natural was to be moralized by being held inside the unity of *one pair*. Monogamy is not only implied in this first answer, but expressed as plainly as language can give idea. He had nothing more to say than "What *therefore* God hath joined together, let not man put asunder."

He had answered the question of the Pharisees with an unmistakable negative. What he said in reply to their second question was simply explicatory of what he had said in reply to the first. Really if Christ had never uttered the exception of adultery in the second answer, it lies in the *monogamy* which is the essence of the first answer. Adultery is reversion to polygamy, reversion to promiscuity. Monogamy has, by adultery, ceased to be. The exception contains in substance all that Jesus taught about marriage, to wit, that it should be monogamic.

The claim is made, that what Christ said might have answered for the civilization of his time, but could not apply to the conditions of life in this age. There are some constants in nature; and religion and human law ought to respect those constants. "In the beginning God made them male and female." That is a *constant* to this time — to be a *constant* for all the time of earth. Children are born as they were in the day of Christ. Law and religion ought to respect *that constant*. The family is as desirable an element in civilization to-day as it was nineteen centuries ago.

The family is the oldest institution known to man — older

than the state, older than the church. Family unity, genuineness, and purity ought to be *a,* perhaps *the,* chief concern of the race of man. Christ cast out polygamy as other devils. A man shall cleave to his wife, and *the two* shall become *one flesh.* So that *they* are no more *two,* but *one flesh.* "What *therefore God* hath joined together, let not *man* put asunder."

Monogamy is inherent, pervasive, an underlying subsumption in Christ's words. Divorce with permission to marry is barred because of its essential destruction of monogamy and family unity. Divorce is evasion. It is a substitute for polygamy. Christ denied it.

Cruelty to a wife or desertion of her does not practise family sex function — institute polygamy — beget children by another woman — as fornication, adultery, does. The stupidity that compares cruelty with adultery is an astonishment. The two things are not comparable. It is like saying a mountain is as high as a plain is flat — that snow is as white as vinegar is sour. If you want to go over to polygamy, then condone, excuse, or minimize adultery, and you are on a high road that leads to polygamy.

This is the sum of the matter about the criticism of the text of the Gospels. Monogamy is imbedded in all three of the Evangelists. It is to be inferred from all. Divorce granted with liberty of remarriage in every case excepting that of adultery lands in polygamy — withheld in case of adultery lands in polygamy. In Matthew, Jesus has twice expressed this latter fact and principle. Whichever way you depart from Christ as recorded in Matthew xix., you are landed in polygamy.

Right before your eyes Luke's is an abridged account as against Mark, and is a mere mnemonic of the monogamic principle taught by Christ. Mark is abridged as against

Matthew. All three preserved the same base idea — monogamy. Therefrom springs, by inference, whatever is essential to monogamy. Psychologically Matthew's is the most natural description of the particulars of the discussion. I would like to go before the United States Supreme Court on the question, Who introduced Moses into the discussion? According to Mark, Jesus did it. According to Matthew, the Pharisees. Just read the two accounts together, and decide for yourselves which is the most natural. According to Matthew, Jesus disposed of the matter at issue without a reference to Moses, and then the Jews sprang their second question, Ah, but what will you do with Moses? According to Mark, Jesus himself brought in Moses, an authority on the face of the case against himself, and then explained him away. That is not good psychology. It is bad argumentative form. It is apparent that Mark in epitomizing the discussion has confused the order — just what you might expect from a condensing secondhand reporter. Matthew puts antecedents and sequences in such order as you would think would come direct from the keen perception of Jesus. The Master himself is on deck in Matthew. This then is the result we reach from the teaching of Christ — in and about marriage — Thou mayest develop sentiment ethereal in quality and empyrean in altitude, but back of monogamy, physically, thou shalt not go.

PAUL.

Paul has nowhere treated of divorce. That he did is an idea that grew up since the days of Charlemagne. It did not come to the front when the pinch of the trouble was felt through all the days of conflict with heathenism in the Roman Empire. If the church did not know of such construction of Paul in the early centuries, it is better to be shy of it in the later.

In regard to marriage, or marriage troubles, Paul was a quietist. His philosophy was exactly, Brethren, let each man, wherein he was called, therein abide with God. If he made any suggestion about wrongs in married life, it was that the party who was in the right should keep still. That certainly would not authorize one to procure a divorce and marry some one else. Nor would it prevent one who had been brought into polygyny or polyandry by the wrong of the other from terminating the polygyny or polyandry. Much has been read into Paul which is not there. But the seventh chapter of First Corinthians is the best ethical tonic for right sex and marriage relation ever prescribed by man. There is not a sentence in Paul that adds to or takes from what Christ laid down in the nineteenth chapter of Matthew. So we are remanded to that chapter as the full and final teaching of Christ and of Scripture on the subject of divorce, and as setting forth the first and last and supreme rationality pertaining to marriage.

SOCIOLOGY.

Now open the question in the courts of sociology.

The world may wander forty years or forty centuries in the wilderness of experiments and statistics, and, unless it goes to perdition, it will return to the nineteenth chapter of Matthew as the *supreme rationality in regard to marriage and divorce.* If we dismiss Christ's *authority,* his judgment will stand as *reason.* The race of man will be monogamous, and cut up, root and branch, all polygamy and all legal and statutory protections of it, or of approximations to it.

The first thing that will be perceived is that divorce induces the very evil it professes to alleviate. Apologists for divorce bring forward the miseries of partners that have become alienated from each other. It is apparent, on the face of the

matter, that as you make a way out of marriage you are inducing carelessness about entering it. When one woman is divorced for the cruelty or drunkenness of her husband, ten women are taught to be reckless about marrying a man who is likely to become drunken or cruel. A vicious paternalism comes to the front in society here. It takes the burden off the parties deliberating about marriage, and assumes to furnish happiness for them if they make a mistake. A few years ago in Chicago there were two thousand cases of desertion in which public aid was asked for the deserted families. It is safe to say that there would have been one thousand less cases calling for public charity had not the permission of divorce for desertion stood in the statutes of this and neighboring or distant States. It is even quite probable that there would have been, at the outset, a thousand less marriages that came ultimately to call for charity, if the parties thereto had plainly understood that they would be held inexorably to their marriage. It is common hearing over a long line of our social life, "Well, if my husband were to do so and so, I'd get a divorce." The girls in the kitchen say it and the scholars in the schools. There is where we are. The common consciousness of the ease of breaking up marriage disarms caution about the character of a partner.

Divorce may give deliverance from the ills of marriage, but it is as well a swivel door that lets the heedless into them. It is not necessary to argue this — it is open fact. Our divorce statutes do not diminish the sum total of evil in marriage; they tend to increase it.

There is one other important matter which they make us forget, and that is that it is possible for the power of society to be brought to bear to restrain and eliminate the evils in marriage. For about three-quarters of a century we have

been saying every time wrong is disclosed in marriage, Break it up. Had the force that has been spent on disruption of marriage been put on removing the evils found in it, we should be on a vastly higher social plane than we are. The husband that is cruel in marriage can be punished because he is cruel in that specific relation. The husband that is drunken and fails to support his wife can be put to work for the public. The man that deserts his family can be brought back and given the choice to work for the public or his family. Most of the troubles in such cases would never have existed if society had laws and courts and officers to act in the premises. If the troubles did exist they would be found as amenable to law and social sentiment as any other crimes and misdemeanors. We have been blundering along on the wrong track, when a high passable road lay open to us which we ought to have had wit enough to discern and pursue.

What is all our legislative and judicial and police apparatus for except to enact and enforce law to aid and protect the most fundamental institution of human society — the family — and to appear in kindly potency in its troubles? Just think of all this machinery—

> "As idle as a painted ship upon a painted ocean."

Such social helplessness is idiotic.

After having scornfully rejected the right way for a generation or more, we are now turning toward it. We have now put on the statute book an act for separate maintenance. Within a few years, in some States, we have made desertion a crime or misdemeanor punishable by fine and imprisonment. Both these acts are in the right direction. They show that something can be done, by direct action on the ills of married life, without proceeding at once to its annulment. There is no limit in sight to possibilities in this direction.

We already have a juvenile court; why not a court for matrimonial causes, domestic relations, as is done in England, to which all troubles in marriage may be sent for equitable action according to their nature? We need not make a separate court; such cases could be committed to our present courts of common law and equity jurisdiction. In this way we could restore the principle of divorce *a mensa et toro.* That, one may say, is a step backward toward ecclesiastical law. Suppose it is, what of it? The church always knew better than any one else what to do with wrongs in marriage. It had for them its processes of discipline. The power of the keys gave it power over men. When its ghostly terrors — as refusal of the sacraments, of burial in consecrated ground, and ultimately excommunication — failed, society should have put secular processes of regulation in their place, instead of throwing away the idea of discipline.

Here we might ask, Who is responsible for the present confusion in regard to divorce in this nation, from which even secular society is crying out, "Good Lord, deliver us"? Certainly it is not the church. It is just because the state has treated with contempt the wisdom of the church that we are in this present condition of distraction. The church has not asked for the existing divorce statutes. The Catholic Church has not asked for them; neither have the Protestant denominations.

I see that a university professor says that the Puritans are responsible for the introduction of our free divorce laws. Because the Puritans did not bring ecclesiastical law with them, as they did not, it does not follow that they did not bring the morality in respect to marriage which was imbedded in ecclesiastical law. It is a remarkable statement that our freedom of divorce is derived from the Puritans. Down to 1836

— that is, for two hundred years of Puritan history in Massachusetts — divorce was allowed from the bond of marriage for only two causes — adultery and impotency. Divorce for desertion was not allowed till 1838. The responsibility of the Puritans for our present condition is not very apparent.

Our present condition is excuseless. There is no necessity for its existence. If we were to repeal all our divorce laws to-day, neither to-morrow nor any other day would trouble arise in society. Add a new clause to the divorce statute, and new cases will appear in the courts. Strike out a clause, and a set of cases will disappear. The repeal of a clause has in some States lessened the entries on the dockets of the courts by scores and even hundreds. Yet society has received no damage. There has never been a public meeting held in a State in this nation to advocate the placing of a single clause in our divorce statutes, nor a single meeting to protest against the removal of a clause therefrom.

It seems to be assumed that our divorce laws represent public sentiment. They do not. They are the product neither of the conscience nor the common sense of the country. They are simply the sufferance of public carelessness and of the inertia that dislikes to attack even a patent public evil. That is all the strength there is in the divorce situation of to-day. "While men slept, an enemy sowed tares."

Just how radical is the remedy demanded for the present divorce situation, — how revolutionary is the end sought? What is asked is only what was substantially universal law in the country down to a period within the memory of men still living. What is asked is a state of things so tolerable that the people of England and of Canada and of the state of New York live in it without public suffering or disturbance. Nothing new is asked, nothing fanciful, nothing impracticable.

The public mind seems to be stupefied as though there were some great mystery involved in settling upon a proper statute. The way is as plain as a section line road. There are people to whom it seems to be natural *nodum in scirpo quaerere,* 'to hunt for a knot in a bulrush,' — a difficulty where there is none.

The senselessness of our divorce laws cannot be better set forth than by the following statistics, for which I am indebted to Professor W. S. Harwood, of the University of Chicago.[1] In thirty-four years from 1867 to 1901, 69 divorces were granted in Canada — 700,000 in the United States. The population of Ohio is about equal to that of Canada. In 1899 Ohio granted 3000 divorces, Canada 4. Yet life has been tolerable in Canada. The truth is that the divorces in this country, in the main, are an idle, excuseless present to foolishness and the flesh. Some one will say that England, New York, and Canada have sex vice. Certainly, but it stands as sex vice. The law does not palliate or condone it.

The argument is made that if society does not grant divorce, there will be more open adultery. That is doubted. But, suppose it were true, is society to be bulldozed into granting the privileges of polygamy by threats of adultery? Practically that threat would be idle. Even without any law to punish adultery, few people would be found to brave the public sentiment against it. In the very great majority of cases where divorces are now granted, if the divorces were refused, there would be no defiance of law. Parties crave the defense of a statute to make a new sex relation respectable. The argument for purity by way of divorce is simply silly — is a cowardly surrender to a bluff of sin.

[1] World of To-day, February, 1904.

Now it may be said that with all the disintegration of our divorce laws we have yet a very wholesome public sentiment and even practice in regard to marriage. Heaven be praised that is true. But the end is not yet. The returns of the influence of our divorce laws are not all in. We have only under observation the effect on one generation; for the great tide of freedom of divorce began to run scarcely more than half a century ago. When society gets once adjusted to the idea that the continuance of marriage is at the option of the parties, and to that result opinion and practice is gravitating, what reverence for it will be left? If the following instances illustrate what now is, what will be the estimate of marriage in the generation to come?

"Sue, who is your father now?" "Oh, so and so." "Well, you'll get tired of him. I had him for a father once. He is no good. You'll be glad when he is gone." Where is the family? Two boys come skipping down the walk from a house. They meet a man going up to the house. They say to him, "Papa, tell mamma when she comes that we have gone to ride with father" — which latter personage sits in a carriage at the gate. Where is the family?

Are the girls in the first case likely to have very exalted ideas of the sanctity of marriage either before or after their own experiments in it? When passion's storm and stress come to those boys, are they very likely to have any restraining influences from the ideal of family unity and of unbroken purity of marriage life? No, no, we are not in the rapids yet, but they lie only a generation or two ahead.

One divorce for every four marriages in Kansas City! How far are we from the rapids of family disintegration?

That children ought not to be brought up in an atmosphere of conjugal disharmony is a plea for freedom of divorce.

That is shallow reasoning. What has been said before about the non-appearance of evils in marriage, if the parties thereto know that they must make adjustment to each other and know that they cannot escape from the existing into a new marriage relation, will apply here. Hume was not a traditionalist, was he? Yet he said: "We must consider that nothing is more dangerous than to unite two persons so closely in all their interests and concerns as husband and wife without rendering the union entire and total. How many frivolous quarrels are there which people of common prudence endeavor to forget, when they lie under the necessity of passing their lives together, but which would soon be inflamed into the most deadly hatred were they pursued to the utmost under the prospect of an easy separation!"

Gibbon was a free thinker, was he not? And he says: "A specious theory is confuted by this free and perfect experiment at Rome, which demonstrates that the liberty of divorce does not contribute to happiness and virtue. The facility of separation would destroy all mutual confidence and inflame every trifling dispute."

Indeed, disharmony in the family relation is a serious evil, but there is something worse than that for children, and that is that there be no family relation at all. The first right of a child is to be family born, and the second right is to be family bred, and the third right is to be family inspired — to have the family idea ineradicably inwrought in the structure of his being. A child so born, bred, and inspired, on coming to maturity will bring no disharmony into marriage. Such a child will be careful about forming a life bond, and will heroically bear infelicities if they appear in it.

Murder and adultery ought to be held in the same estimate; the one wrongfully sends a being out of this system of

existence; the other wrongfully brings a being in. And there is as much malice aforethought in the latter as in the former case. It is as inexcusable.

A Christian altruism must look the generations in the face as well as an individual. Even patriotism does that.

Some one says: "Our traditions make against sacrificing the individual to society." But that is bad politics, to say nothing of religion. When have our traditions held that the privileges or even the rights of the few should override those of the many? Who in history have claimed that the whim or will, or the ill, of an individual in regard to divorce, or anything else, should be respected in derogation of the weal of society and of posterity? "A little child shall lead them."

An institution is more valuable than an individual. We sacrificed in 1861–65 lives by the hundred thousand, with attendant woe and sorrow, for an institution — the Union.

Moralized monogamic marriage is worth more to the nation than the union of the States.

We ought not to be any more willing to go back to the license of polygamy or promiscuity than to slavery; yet divorce statutes point in that direction. We fumble over the matter and pull up a decree of a court as a blanket to cover our nakedness, but in principle we reach in divorce the same result as the Sultan of Turkey with his harem. The sex unions of polygamy and divorce, *in rerum natura,* are alike consecutive, not simultaneous. We dethrone monogamy and enthrone polygamy. We ought not to give up the monogamic family to gratify criminals and to remedy the mistakes of fools. We provide for secession from the family when our word ought to be "UNION NOW AND FOREVER, ONE AND INSEPARABLE."

Here we ought to notice our haste to institute polygamy. Jacob waited seven years before he began his. But in many

States we authorize its beginning on the docketing a decree. "The divorce baked meats do hotly furnish forth the polygamy table."

UNIFORM DIVORCE LAW.

I marvel at the contentment which so many excellent people seem to have with the idea of a national uniform divorce law. They assume that that would end all our trouble. Now trouble with divorce goes not out that way. It is easy enough to call out of the vasty deep a uniform divorce law, but will you be satisfied with it when you get it? The question of *right* in a law deserves consideration before the matter of its *uniformity*. There is nothing more fearful, more to be dreaded, than wrong intrenched in law. We had a uniform fugitive slave law — did its uniformity make it right? Yet that law had a terrible hold on the public mind just because it was *law*. In the South there is a public sentiment, which is even crystalizing into law, reducing the negro from a citizen to a peon or a thrall: if that sentiment becomes uniform, will it with its resultant law be right? Yet what force that sentiment is acquiring even at the North, just because the ægis of enactment into statute is spread over it! If we are to judge by experience, we ought to fear any one bringing us the present of a uniform law on divorce. The probability is that it would be a delusion and a snare. The prime matter is not one of uniformity, but one of right. We lament the present confusion. But the little finger of wrong intrenched in a uniform law might be thicker than the loins of the wrong in the present confusion. Let us speak less of uniformity till we can tell clearly in what the uniformity should consist. Righteousness may tend to uniformity in law, but uniformity is no guaranty of right.

About as far as thought usually goes in this matter is that a uniform national law would prevent migration from State to State for the sake of divorce. But that is an inappreciable element in the divorce business, a negligible quantity. The statistics are sky-high now to show that the divorce business of a State arises under state law from parties living in the State. Divorce suits in Illinois are brought by partners *bona fide* resident in Illinois, before Illinois courts, under an Illinois statute. The statute of Illinois is uniform over the State. You have uniformity in the State; shall we recommend to the other States of the nation the adoption of the Illinois statute? If not, why not? We are brought face to face with the question of the ethics of divorce law — just where we ought to be brought — to the necessity of determining what we will and what we will not justify as divorce law, what we will and what we will not recommend to the States of the nation for adoption — charged with the duty of determining what in divorce would be right. It is better not to cry for a uniform divorce law till we know what it is to be.

Why continue to call upon somebody to draw up a bill for uniform divorce when the proposition has been twice conspicuously, if not contemptuously, turned down? A few years since a commission was appointed by the governors of many States. But their work came to naught. They were not prepared to recommend any particular statute. One that came nearest to adoption had all the vices in it of the average of the existing statutes. What profit would we have if the same amount of divorce as now came out of such a law?

The American Bar Association had a committee for years on the clauses of a divorce statute, but that committee has been discharged from further consideration of the matter. Why bawl to Baal when we get no sign that he intends to

hear? *O sancta simplicitas sanctorum!* Do we issue checks in blank and give to every stroller? Ought not as much care to be taken about the filling of a divorce law as of a check? The character of a statute should first be considered, inquisition made upon the wrong which it might incorporate and entail upon society.

The Inter-Church Conference has ceased advocacy of a Jack-o'-lantern chase after a constitutional amendment and a uniform law under it. That conference seems to prefer work upon the statutes of the States. This attitude is correct. But upon what the law should be, there has been no deliverance. If we want the nation or the States to have a uniform law, let us tell the nation or the States what law we want — what the provisions ought to be.

The great hindrance in the way of reaching a right result is that so many people want to solve all questions of casuistry, to provide for all exceptions of which they can conceive — exceptions most probably hypothetical, academic, or if actual yet rare. There will be difficulties and infelicities in every system of social regulation. It may not argue great scope of wisdom to find fault or pick a flaw. Nothing is perfect.

As excuse for free divorce, it is said that it is hard to prove adultery. Well, what shall we do? Shall we enact a law that will open the door of divorce in suspected cases? Shall we allow other grounds of divorce in order to help a partner who cannot prove a case? Then we shall have to enact just what we have — laws so open that all marriage can run through them.

Adultery hard to prove! God be praised it is. If a thing is hard to prove there is little of it. Radium does not lie about like rocks. Hard to prove! Yet in 1904 more than a thousand cases were proved in the city of New York, and

more than four hundred in the city of Chicago — enough to bear the testimony of society against the crime.

Suppose some person who might be entitled to divorce cannot make a second marriage for want of proof of adultery unless a statute has large facilities for divorce for other causes. What of it? There are a great many people who are not married at all, who live honorable lives, and their cases do not trouble us. Why this intense desire to help some one who has made a failure in marriage to make, most probably, another failure? The main objection we have to divorce statutes now is the *amount* of disruption of marriage which takes place under them. Would that objection cease if the same amount were done under a uniform law? Why ask for that which we should not be satisfied with when enacted? It is to be hoped there is righteousness enough left in religion yet to be dissatisfied with what is wrong.

No, let judgment begin at the house of God. Primarily divorce is an ethical and religious question. It is a question raised in the Scriptures, which set out, at least, "the beginning of the gospel of Jesus Christ." If, in a matter of such import, the church cannot make a definite statement of its desires and demands, then, let it, for the benefit of the world, make assignment of its function as a teacher of righteousness and go out of business.

I will now return to our point of departure. The vision of Jesus on divorce, set forth in the nineteenth chapter of Matthew, will never be surpassed. His teaching is right and practicable, and church and state ought to conspire to give it force in social estimate and in law.

The Christian and the civilized world are called upon with peculiar emphasis to choose this day whom they will serve

in setting up their ideal for marriage. Shall it be sentimental hedonism, careless of family unity, or moralized monogamy? Goethe said: "What culture has won from nature we ought on no account to let go again, at no price to give up. In the notion of the sacredness of marriage Christianity has got a culture conquest of this kind, and of priceless value."

It is a long, long way we have to come to reach the sublime heights we have attained in the sex relation. If I wanted to make an argument for the existence of God, I would take the line which shows what the Brooding Spirit has wrought in man from animalism and savagery and barbarism up to — say — "The Cottar's Saturday Night" or "Snow-Bound." What hath not God wrought? We can see the path of his spirit. Let us adore! Let us rejoice and be glad that we are where we are on that upward climb! But the work is unfinished, and we can be coworkers with God in an end more blessed still further on.

There are two eddies clearly to be seen setting backward to the great "Serbonian bog" of animal passion whence we came — the Redlight District and Divorce. With these two conspirators and with the propensities and influences that support them, we must deal. There is work to be done along the whole sex line to secure the practice of the Christian ideal.

The moralization of sex is more radical and important than that of industry. An article in a recent periodical puts forward this instance as showing the need of readjustment of rewards to industry. Here is a man with six children two years apart in age. He has never had more than forty-six dollars a month — a sum inadequate to family support and education of the children — and so society must supply the want — hence greater wages for the wage earner. But there is another *hence* about such case. What moral right has a man

as against society, against his wife, against his children, and against himself to bring children into the world as fast as they can come, with no probability before him that he can support them? On the other hand, everywhere the four hundred — the born in the purple of wealth — are comparatively barren. This is not lamentable. They do not furnish a hopeful environment. There is an ethics prior to the industrial ethics, to wit, sex ethics.

Moralization in the struggle for existence must begin back here in the moralization of sex propensity — in penury and plethora — as *well in* marriage as *out* of it. The time will never come, and never *ought* to come, when parents will be relieved from care about the nurture of their children.

> **"Lord, who ordainest for mankind**
> **Benignant toils and tender cares,**
> **We thank thee for the tie that binds**
> **The mother to the child she bears."**

It is to be hoped that no industrial arrangement can be made that will relieve mankind from the moral pressure of those

> **"Benignant toils and tender cares."**

We are not animals to breed and fish to spawn, and throw upon nature or society care for those we bring into existence. We are "rational and accountable creatures," and are and ought to be held to responsibility as well *in marriage* as elsewhere. We ought to begin to see the unbounded range of moralization of *family life*. Yet who cultivates this field? Great is the field! At least half the life of the race is concerned with sex:—

Father, Mother, Son, Daughter, Brother, Sister, Lover, Husband, Wife, Family, Grandfather, Grandmother, Uncles, Aunts, Cousins near and remote, society. I envy the rising

generation of students the privilege of being a force for moralization in these relations. May they have courage and discretion to inspire in this realm to that purity of life and nobility of being which can stand inspection from the on- and in-gazing God.