

## I. Other Confessions and Religions

By operating decisions, the marriage of Orthodox with **dissenters** is allowed not differently, as after the reception of the latter into the Orthodox Church, it is confirmed by oath<sup>1</sup>. If the groom and the bride, **both belonging to the raskol [schism]**, express the desire to be married by an Orthodox priest<sup>2</sup>, their wedding in the Orthodox Church is possible not differently as soon as they meet the condition of first joining Orthodoxy<sup>3</sup>. And before the wedding both of them are obligated under oath to be steadfast in Orthodoxy and not to believe with dissenters<sup>3</sup> (Svod Zakonov [Code of Laws], vol. X, part 1, article 33). See above, p. 1106.

Marriages performed outside the Orthodox Church by old believer priests are not recognized as lawful marriages in relation to the church<sup>4</sup> (See the Polnoie Sobranie Zakonov [Full Collection of Laws] Ukase (Decree) of the Holy Synod, 14 Aug. 1808, placed in the Decrees (Ukases) of the Ruling Senate on July 19, 1827, № 1257; refer to the Polnoie Sobranie Zakonov [Full Collection of Laws], Visochaishii utvezhenie [Imperial ratification] opinion of Gos. Sov. [Council of State], 10 Dec. 1828, № 2507).

In 1888, the Holy Synod explained that the crowning of Orthodox<sup>5</sup> after the Raskol rite is not an independent crime but only a sign of apostasy to the Raskol, and the Orthodox person having entered the Raskol marriage as apostasy to the Raskol, are first of all subject to exhortations<sup>6</sup> (Uk. Sv. Syn. [Decrees of the Holy Synod] on May 31, 1888, № 8).

We have been acting on decisions allowing the marriage of foreigners of the Orthodox confession with Russian citizens of the same confession (Svod Zakonov [Code of Laws], vol. X, part 1, article 1), at the same time marriages of male and female Russian citizens of the Orthodox confession are allowed with Catholics<sup>7</sup>, Lutherans, Reformed and with other **persons of Christian confessions**, both having and not having Russian citizenship (see below).

If there are no lawful obstacles to this, the parish priest has the right to perform marriages of Orthodox persons with the specified heterodox persons without asking the **permission of the diocesan Hierarch** (refer to note 2 on p. 1107).

If the priest has doubts, then, without beginning the marriage ceremony, he is obligated to inform the Hierarch with a statement of the reasons for doubt. On examination of these reasons, the Hierarch decides the matter himself, or when formal management is required, he orders the Consistories.

At the fulfillment of marriages of Orthodox persons with the heterodox **all decisions** concerning the announcement **should be executed and observed** (refer to p. 1129), majority age, relationship, mutual consent of those being married, the consent to the marriage of their parents<sup>8</sup>, the presentations by those being married of all necessary documents for the marital

search<sup>9</sup>, in a word, all those canons and precautions, which are posited for marriages between Orthodox persons<sup>10</sup>.

Besides this, it is everywhere required, except for Finland (for which the withdrawal of the natives is decided in article 68, - about this see below), persons of other Christian confessions, entering marriage with Orthodox persons, have given a **written document** to the priest before the fulfillment of marriage that they will neither defame the spouses because of Orthodoxy nor to decline them through seduction, threats or otherwise to the acceptance of their faith and that children born in this marriage will be baptized according to the canons and brought up in the Orthodox confession<sup>11</sup>. The priest holds this written document established for it before doing the marriage rites, and after the wedding presents it to the diocesan Hierarch<sup>12</sup> (Svod Zakonov [Code of Laws], vol. X, part 1, article 67; Uk. Sv. Syn. [Decrees of the Holy Synod], 7 Aug. 1885, № 7).

**The wedding** of the Orthodox with non-Orthodox should be certainly done by an Orthodox priest in the Orthodox Church according to the canons and rites of the Orthodox faith<sup>13</sup>. Requests to do a wedding ceremony by the rules of only one foreign church are forbidden to be accepted<sup>14</sup> (ibid.). The marriage of an Orthodox person with the heterodox is not recognized as valid as long as it is not done in an Orthodox church by an Orthodox priest (Ustav Dukhovnikh Konsistorii [Ustav of the Spiritual Consistory], 26), and in particular - marriages of persons of the Orthodox confessions done by Catholic priests are considered void as long as the same marriage is not done by an Orthodox priest<sup>15</sup> (Svod Zakonov [Code of Laws], vol. X, part 1, article 72).

In Finland, if the marriage consists of persons of various Christian confessions, the wedding is done in both churches of those confessions to which the groom and the bride belong (see p. 889 above concerning the children from this marriage). This decision concerning the persons confessing the Orthodox faith extends only **to natives of Finland**. Marriages of those serving the military of the Orthodox confession, found in those places under military command and quarters, should be done by Orthodox priests on the basis of general decisions<sup>16</sup> (Svod Zakonov [Code of Laws], vol. X, part 1, article 68).

At marriages of persons of the Orthodox confession with Protestants in the provinces: Lifljandsky, Estljandsky and Kurljandsky, from the Protestants a **certificate is required from their pastor, that** they are announced in their parish and that no obstacle in particular was uncovered to prohibit the marriage. After the marriage is fulfilled, the pastor should be notified of the time of the wedding (ibid., article 69). - See p. 889.

Relative to **weddings by the Orthodox priest of marriage of both persons who are not Orthodox** (such as: Catholics, Lutherans and so forth), the Svod Zakonov [Code of Laws] says: "Generally marriages of persons of Christian confessions should all be done, under their law, by

the clergy of that church to which those entering marriage belong<sup>17</sup>. But these marriages will be recognized as valid and then if the priest or the pastor of their faith is absent from that place where this is done, then the wedding may be done by the Orthodox priest. In this case the fulfillment and divorce of these marriages may already be done by the canons and rites of the Orthodox Church<sup>18</sup> (Svod Zakonov [Code of Laws], vol. X, part 1, article 65).

The marriage of Orthodox **with non-Christians** is altogether forbidden to Russian citizens<sup>19</sup> (ibid., article 85).

But if a married non-Christian person receives Holy Baptism, then he may also remain in monogamous co-habitation with **his unbaptized wife**. According to the commandment of the Apostle Paul (1 Cor. 7:13-14, 16-17), their marriage remains in force even without the confirmation of his wedding according to the canons of the Orthodox Church<sup>20</sup> (See the Svod Zakonov [Code of Laws], vol. X, part 1).

If both spouses become Christian, then their marriage union remains in full force, although it would have to agree with the degrees of relationship prohibited by the church (ibid., article 84), and, being already consecrated by the fulfillment of the Office of Uniting to Orthodoxy over these spouses, but they, not the remarriage, are only blessed by the church ceremonial<sup>21</sup> (Polnoie Sobranie Zakonov [Full Collection of Laws], 25 Apr. 1729, Prakticheskoe Rukovodstvo dlia Sviashchenno Sluzhitelei [Practical Manual for Church Servers], p. 245).

If the newly-illuminated had **several wives before**, then, after the acceptance of holy baptism, he should choose one of them with whom he will wish to live and mainly also should be converted to Christianity, and then their marriage receives the blessing of a church rite. This canon also extends to the wives **who had several husbands**<sup>22</sup> (Svod Zakonov [Code of Laws], vol. X, part 1, article 82).

If any of the wives does not wish to be baptized and the husband will not express the consent to live with the unbaptized, then he will be permitted to enter into a new marriage with an Orthodox (ibid., article 83).

If **the wife** or one of wives **of a Mohammedan or** another person of a **non-Christian confession** accepts holy baptism, then his marriage may remain in force without the confirmation of his marriage by the canons of the Orthodox Church, but then only, when the husband, remaining in his own faith, needs to give the obligation: 1) children born from this time should be baptized in the Orthodox faith, whether or not by seduction, threats and in any other ways not to observe the law and his wife does not render the maintenance of the Orthodox faith by scandal and reproach; 2) to stand in the acceptance of holy baptism during all time of her life or however long their marriage will continue in monogamous co-habitation, having cast

away any other wives if he has any. Moreover it should be known that receiving holy baptism was not before she was separated from her husband from marital co-habitation with him. But if the husband disagrees to give the above statement of obligations or if it is revealed that receiving baptism she has been separated from co-habitation with him, then their marriage is terminated, and the wife is permitted to enter a new marriage with a person of the Christian confession (ibid., article 80).

If one of the spouses, **belonging to Judaic law**, converts to Orthodoxy, but the other remains in the former law but wishes to live with the convert, then, having left them in a marriage without divorce requires these documents:

First of all, in order that he had carefully cared about bringing another exhortation for the recognition of the Orthodox faith, but the latter in having children born after this, neither seductions nor threats and by any other means led to the Jewish law and did not render to the spouse who converted to the Orthodox faith for this confirmation of dishonor and reproach.

If the husband or the wife, after the conversion of the other spouse, does not wish to live in the former marriage union, then the marriage will be terminated, and the person who converted is allowed to marry an Orthodox person<sup>23</sup> (ibid., article 81).

In order to eliminate misunderstanding by the diocesan authorities while fulfilling the canon of article 81, part 1, vol. X of the Svod Zakonov [Code of Laws], the Holy Synod found it necessary to issue the following general instructions concerning the order of proceedings of this sort:

Soon after the receipt of reports on the fulfillment of holy baptism of one of the spouses in a marriage under Judaic law from their clergy, the diocesan authorities also after obtaining from the spouse remaining in Judaism a response concerning the continuation of marital co-habitation with the newly baptized spouse (for more details, see p. 934 above), if it appears that the spouse who remained in Judaism will express the desire to continue the specified co-habitation and both spouses will meet the requirements of article 81, part 1, vol. X of the Svod Zakonov [Code of Laws] for documents, then the marriage concluded in a Judaic ceremony, remains without cancellation.

When the spouse who remained in Judaism will not wish to remain in the marriage with the spouse who converted to Orthodoxy, or, having expressed the desire, will not agree to give to the demands of the above-stated article 81, part 1, vol. X of the Svod Zakonov [Code of Laws] for a document, then the marriage done according to the Judaic ceremony, by the power of the referenced article of the law is, thereby, terminated.

In this last case, the permission for the spouse who has accepted Orthodoxy to enter into a new marriage will be given by the local diocesan Hierarch, without special examination; whatever is confirmed by the claims of divorce.

As to the other spouse, who remained in Judaism, then the further definition of his rights to a new marriage quite depends on the places and persons knowing the matters of the Judaic religion (Opredelenie sviatago Synoda [Decisions of the Holy Synod] of 11 Dec. 1891 and 12-26 Feb. 1892, № 3181). - Refer to p. 1113 above.

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<sup>1</sup> All dissenters, but consequently also those who **received the Austrian priesthood**, can also be married as Orthodox (also equally the edinovertsy) priests only under the condition of their joining the Orthodox faith (Tserkovnyi Viestnik [Church Messenger] 1897, 10, 11).

**Recent conversion** from the raskol to the Church does not create an obstacle to marriage (resolution of Metr. Philaret; see Dushepoleznoe Chtenie [Edifying Reading], 1895, part 2, p. 498).

If **one of the schismatic spouses joins** the Orthodox Church, then there is no way there can be church sanctification of their marital co-habitation and speeches for the other spouse still remains in the schism (Bogoslovskii Viestnik [Theological Messenger], 1896, № 1, p. 127; refer to the Sobranie Mnenie (Collection of Opinions and excerpts), vol. 2, pp. 373-374).

Marriage of an Orthodox with a dissenter in the Orthodox Church, without the preliminary conversion of the bride is recognized as illegal and children from such a marriage are illegitimate (Tserkovniia Vedomosti [Church News] 1896, 1).

For those converting from the schism, in the case of their entry into marriage, it follows to apply the existing rule in the Orthodox Church about the carnal, spiritual and property relationship (Tserkovniia Vedomosti [Church News] 1896, 12-13), but equally, of course, also all the other **canons, settled laws** making the marriage lawful.

Marriages of the Orthodox with **Molokans**, on the basis of canon 72 of the VI Ecumenical Council, are not allowed differently than after the conversion of those non-Orthodox persons to Orthodoxy (for details see the Sobranie Mnenie (Collection of Opinions and excerpts), supplementary vol., pp. 602-605; refer to note 2 on p. 1116).

Orthodox are not permitted to marry **schismatics and sectarians** of all doctrines and classes as long as these persons do not accept Orthodoxy (Uk. Sv. Syn. [Decrees of the Holy Synod] 18 Aug. 1821; see Samarskiia Eparkhial'nyiia Vedomosti [Samara Diocesan News] 1898, 1).

<sup>2</sup> If the dissenter (at least those of the priestless sects) is married, concluded in a dissenting ceremony and properly entered in the appropriate metrical books, then he has no right even **after accepting Orthodoxy to enter into a new marriage** (with an Orthodox person), as long as his former marriage still exists. Otherwise he seems to be guilty of article 20, part 1, vol. X of the Svod Zakonov [Code of Laws], prohibiting the new marriage while the former marriage exists, and is prosecuted according to article 1554 of the Ulozhenie o nakazaniakh [Criminal Code of Laws] (Reshenie Ugolovnoi Kassatsinnii Departamenta [Decisions of the Criminal Appeals Department], 11 Oct. 1894). His marriage should be, by the power of item 3, article 37, part 1, vol. X, nullified as illegal and void.

Whether the former marriage of the raskolnik follows, concluded according to the schismatic rites, but not entered into the appropriate metrical books to recognize the obstacle for the entry of such raskolnik, after his acceptance of Orthodoxy, into a new marriage, (with an Orthodox person), instructions on this subject is present neither in church nor in civil laws as they are not definitive, the accurate answer to the question about this, how the influence generally has acceptance by one of the spouses of the raskolniks into Orthodoxy on their way of life of the raskolnik marriage: whether the latter for the reason specified can only be terminated or remain in force and at what conditions in this and other case.

In view of such silence in the laws, the Consistory should ask these questions separately in the needed cases, according to the instructions of the Holy Synod, without at all starting with the decision raised by it in similar sorts of matters (S. Grigorovsky, "Collection of Church and Civil Laws about Marriage and Divorce, p. 46). Priests especially, of course, should not decide similar matters independently.

<sup>3</sup> The **Office of Uniting** from the raskol cannot allow any changes, equally cannot allow releases from the obligatory documents demanded for the ones being united (see p. 938 above) by article 22 of the Ustav Dukhovnikh Konsistorii [Ustav of the Spiritual Consistory] (Tserkovnyi Viestnik [Church Messenger], 1896, 8). The documents do not undertake the baptism and education of children in the Orthodox faith by the Raskolniki, since they cannot marry the Orthodox without first becoming Orthodox (Tserkovniia Vedomosti [Church News] 1896, 41). See pp. 948-949 and 960 above.

<sup>4</sup> Up to 1874, marriage co-habitation of dissenters between themselves, even though that looked like a continual family union, our legislation did not admit this as a marriage at all. With the publication of the law of 19 Apr. 1874 and on the basis of article 78, part 1, vol. X of the Svod Zakonov [Code of Laws], the **marriages of dissenters** which have been entered into the established metrical books (see below for details about this), gain power in civil relations and consequently constitute a lawful marriage.

Relatively, such marriages in the opinion of our scientific canonistes are not identical.

I) One maintains that the dissenting marriage is a civil marriage merely having a small difference from the Western-European civil marriage, and the question of the way of the sanctification of the marriage of dissenter-spouses joining the Orthodox Church may be resolved either 1) by strict accuracy of canonical right, or 2) by indulgence. Reasoning strictly canonically, each raskolnik marriage, as it does not have a church sanctification, should obtain this through the fulfillment of a full crowning, but the canonical right and modern church practice allow also indulgence for the infirm conscience addressing the relationship.

In this case the following variety of ways in the special action of the Church is admissible:

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a) Marriages of dissenters, crowned according to office of the Old-Orthodox in the raskol chapels, may remain in full force without the fulfillment of any religious rites over them.

b) Marriages of the priestless irrespective of this, entered or not entered in the police metrical books, should be crowned either with the full office (marriages of the Theodosians), or with some shortened service (marriages of shore-dwellers) - by recovery (see the articles of Prof. N. A. Zaozersky: "What is a Raskolnik Marriage", "Legal and Canonical Meaning of the Religious Element in Raskolnik Marriage", in the Bogoslovskii Viestnik [Theological Messenger] 1895, 2, 3, 1896, 1, 2).

II). In another opinion, the raskolnik marriage is a Christian marriage, done by raskolniks according to the rites of their faith, completed, certified and legalized in the civil relationship by means of its record in the police metrical books. This marriage cannot have any force in the opinion of the Orthodox Church as a religious ceremony, but, by indulgence, out of respect for the legality and firmness of the foundation of society, the Orthodox Church does not terminate such marriages, in the case of the conversion of one or both spouses, but in the last case sanctifies it by act of his reception into the Church and the solidity informs him with the submission of spouses to Christian moral discipline.

In particular, in this opinion,

a) In case of dissenter-spouses who are married joining the Orthodox Church, entered in the dissenter metrical books in the established order or written down in the affidavits of the tenth audit, the general rule applies to such spouses, kept during the conversion to the faith of all foreigners generally and the heterodox. The church blessing and religious sanctification of these marriages, in the case of the uniting of both spouses, is informed by the act of their joining to the Orthodox Church.

b) In view of this, that by the law of May 3, 1883, dissenting religious communities are granted the right of religious corporations of private character for heterodox marriages concluded in confessions tolerated and recognized in Russia. Marriages of reformed dissenters and recognizing the marriage of the Priestless not entered in the metrics, nor in affidavits of the tenth audit, hence, not recognized as legal in civil relations, but tolerated by the government and having the character of indissoluble co-habitation concluded to wholly found a family, hence, of marriage co-habitation possessing indications in civil thought ought to be equal. Dissenter-spouses existing in such co-habitation, in the case of both of them uniting to the Orthodox Church, are blessed to continue of their marital co-habitation also by certificate of union, and then are registered in the metrics as husband and wife and the appropriate investigation that the marital co-habitation of such dissenters relates to the category of continual marital co-habitation on the basis of family records and indications of authentic witnesses should be preliminary done.

c) In the case of joining the Orthodox Church the dissident pairs called spouses, from such Priestless sects who do not recognize marriage and where there are possible merely temporary sexual ties, having the meaning of lascivious co-habitation, these pairs necessarily get crowned, in case their desire to continue co-habitation is already in the form of legal marriage. If one of these spouses converted to the Orthodox Church, then he is obligated to stop co-habitation with the person remaining in schism and receives the permission to enter into a lawful marriage with a person of the Orthodox confession by the canons of the Orthodox Church (See the article of Prof. I. S. Berdnikov: "Notes about the Raskol Marriage", "Second Note on the Question of Raskol Marriage" in the Pravoslavnyi Sobesednik [Orthodox Interlocutor] 1895, 10; 1896, 5, 6).

In the above-stated opinions the deliberations have practical meaning for priests for the sanctification of marriages of dissenter-spouses converting to Orthodoxy by church sacred rites. As is evident, the question at issue is the question of crowning the Priestless who recognize marriage. In practice, this question, as some witness, was decided in that idea that, after the joining of the specified Priestless-spouses over them, usually, or the church crowning was not done at all, or the prayer "the Father, the Son and the Holy Spirit" was read through by the priest with a hand blessing from the Office of Crowning, after which it was entered in the metrical books that the marriage is confirmed by a church blessing and prayer by the priest (for more details, see Bratskoe Slovo [Fraternal Word], 1886, vol. 2 vol., pp. 709-719, 1888, vol. 1, pp. 174-189, 253-273).

Practices in relation to the church sanctification of marriage and of the Priest dissenters are various:

In one diocese (for example, Astrakhan) the local diocesan authority published the order that, in case of the conversion of both spouses from the schism, their marriages would be crowned again.

In other dioceses similar marriages under the instruction of the local diocesan authority should be blessed merely in the church rites (refer about this below) in the church, right after the rite of joining (see the Prakticheskoe Rukovodstvo dlia Sviashchenno Sluzhitelei [Practical Manual for Church Servers], p. 243).

Fr. Archimandrite Pavel Prussky specified that the above confirmed marriage through sacred blessing and prayer, having in view the practice, generally, the most convenient in relation to dissenter-spouses joining the Orthodox Church, "for the sake of supervisory conditions", confirming at the same time that the strict and definitive law, certainly required to crown with the full church crowning of all spouses converting from the raskol is not present, but such a crowning has been ordered from 17 Mar. - 9 Apr. 1831.

The ukase of the Holy Synod to the Vjatsky Metropolitan (See Sobranie postavlenii po chasti Raskolniki [Collection of positions in the department of the Raskolniki], 1860, book 2, p. 247) as casual and private, caused by whatever or special circumstances, invariably does not have the power of active legislation (Bratskoe Slovo [Fraternal Word], 1886, vol. 2, p. 715; 1888, vol. 1, pp. 183-189, 254, 263-271).

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But others hold to the view that this decree(ukase) is based on the law, obligatory for all diocesan bishops, trying to prove their view that still in the decree(ukase) issued by Holy Synod to the Bishop of Voronezh 14 Aug. 1808, subsequently on July 19, 1827, publicized in all dioceses for unified and in all places execution, the Holy Synod recognizes the correct opinion of the Voronezh Metropolitan that "those married by old believer priests" are again to be crowned "according to the Office of the Greco-Russian Church", and based on this affirms that there is an exact, defined and besides "everywhere an announcement" the law, according to which marriages of dissenters joining Orthodoxy as recognizing the Priestless, and the Priestists, it is necessary to crown the marriage with the full order, instead of merely reading the last prayer from the office of crowning, without denying, however, the necessity in certain cases to allow an exception from this law (see Tserkovnyi Viestnik [Church Messenger], 1887, 47; 1888, 14-17; refer to Pravoslavnyi Sobesednik (Orthodox Companion), 1895, № 10, p. 225). It is obvious that, as has been said above, each Raskol "marriage cannot have any force in the opinion of the Orthodox Church as a religious rite" and, "reasoning strictly canonically, every Raskol marriage, as not having church sanctifications, should receive this through the fulfillment of a full crowning".

But in as much as "by need and the law of change it will happen" (Heb. 7:12), then even "the Church after the blessing of the wine, may sometimes bless the incorrect actions of dissenters, completing them before uniting them to the Church, to cover with their condescension" (Sobranie postavlennii po chasti Raskolniki [Collection of positions in the department of the Raskolniki], 1860, book 2, p. 268), without demanding, that the marriage of dissenter-spouses converting to Orthodoxy concluded in the Raskol was certainly sanctified with the fulfillment of the full Office of Crowning. In which cases, "for the sake of supervisory circumstances", may be in relation to the sanctification of the marriage of dissenter-spouses joining Orthodoxy "the change of laws" is allowed in this or that form, explanations for the priest for this may have the power of an obligatory canon merely when these explanations are given by the diocesan authorities or the supreme church authority.

Generally for the practical activities of priests all the aforesaid has only that value that is fully sufficient to support the necessity for them concerning the crowning of the spouses who have converted from the Raskol necessarily to be guided not by opinions of these or other private persons, but only exclusively by the corresponding orders of their authority. As to what is rocking the "Raskol pairs, naming themselves spouses, from such Priestless sects, who do not recognize marriage", then after such pairs unite to Orthodoxy, "in case of their desire to continue their co-habitation already in the form of legal marriage", there is no doubt about the necessity for each of such pairs to have the full Order of Crowning.

<sup>5</sup> **The Edinovertsy** are married to the Orthodox in either the Greco-Russian or in the Old Believer Church, depending on the general agreement with those being married (Visochaishii utvezhenie [Imperial ratification], 27 Oct. 1800 canons about the Edinovertsy, item 14). Children, born from those marriages, depending on the general desire of their parents, are baptized in the Orthodox or Edinovertsy Churches (Visochaishii utvezhenie [Imperial ratification], 4 Jul. 1881, Opređenje sviatago Synoda [Decisions of the Holy Synod], item 1 of the Ukase (Decree) of 19 Aug. 1881).

<sup>6</sup> In view of this, the **entry of Orthodox persons into a marriage with the Raskol** obligates the spiritual authority first of all to exhort those being married according to the Imperial confirmed canons, 4 Nov. 1863.

Then, not before their consciousness of error, the spiritual court may impose on them a penance for the adultery of co-habitation in the rejected Church marriage. Up to the same time their judgment in the spiritual department for adultery would be premature, for how long they, without still declining the exhortations, stand in the dissenting marriage, withdrawn from the department spiritual court, they are seduced, persisting in the Raskol and are subject only to exhortations.

After the examination over the seduced powers of the spiritual exhortations, the spiritual authority can demand an investigation about the seduction in the secular department, having pointed out the seducers and the seduced (Instruction, 1858, §§ 11 and 12). After this the seducers should be subject to criminal judgment to which it was not given, however the right to judge the seduced in as much as they, by the power of article 60 of the Ust. o pred. prest. [Ust. about the Prevention and Suppression of Crime], 1876, (after the publ. 1890, article 56) to be subject not to criminal punishment, but to spiritual exhortation for the remission of sins and for return to the bosom of the Church (Uk. Sv. Syn. [Decrees of the Holy Synod], May 31, 1888, № 8).

It follows that the priest should inform the diocesan authority in an official report about Orthodox persons who enter into a dissenting marriage, according to which the appropriate course of action will be given to the matter. For the Orthodox priest also cannot raise the question about the record of children as not baptized in the Orthodox Church (Tserkovnyi Viestnik [Church Messenger] 1896, 9, refer to p. 861 above. and note 1 on p. 889). At the baptism of these children in the Orthodox Church, they should be written before the mother as illegitimate in as much as the marriage, from which they were born, is not recognized as valid (Tserkovniia Vedomosti [Church News], 1896, 8). - Refer to p. 861.

<sup>7</sup> Maidens, baptized in the Orthodox faith, but **brought up in a Catholic family** and not attending church or the Orthodox Church, if they wish to marry an Orthodox, need to be familiarized with the truths of the Orthodox faith and be confessed and receive communion through the priest (Tserkovnyi Viestnik [Church Messenger] 1892, 46).

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<sup>8</sup> By the explanation of the "Rukovodstvo dlia sel. Pastyrei [Manual for Village Pastors]", the daughter (or stepdaughter) cannot be married without the **will of the Catholic father** (or stepfather) even though her Orthodox mother consented. On reaching civil majority (21 yr. of age), she can ask the local diocesan authority for permission for her to marry without the will of her father (or stepfather) when the latter would interfere with her entry into marriage with the person of the Orthodox confession (For more details, see Rukovodstvo dlia Sel'skikh Pastyrei [Manual for Village Pastors] 1890, 14).

<sup>9</sup> All the **documents** demanded for fulfillment of mixed marriages from persons of other religions should be written in Russian or attached with a Russian translation. Such translation of documents into Russian can be done either in the translation branch of the Ministry for Foreign Affairs or by translators available for similar sorts of matters in each provincial board and recognized in this calling by a legal authority. Translation by a private person can also be done, but that such translation should be certified by the consistory of that religion to which the person marked in the passport belongs (see P. P. Zabelin, "Prava i Obiazan. Presvit. [Rights and Obligations of the Presbyter]", p. 264).

If the **heterodox clergy demands the needed inquiry** from Orthodox clergy relating to the uniting of persons of various religions, the Orthodox clergy are obliged to answer these inquiries (Ukase (Decree) 18 Sept. 1783; see Prakticheskoe Rukovodstvo dlia Sviashchenno Sluzhitelei [Practical Manual for Church Servers], p. 230), and signifying inquiries are answered by the Orthodox clergy in Russian.

<sup>10</sup> Since under the active laws, both the conclusion and cancellation of marriages of heterodox Christian confessions are made accomplished according to that order of who will receive in these confessions, then to crown the **marriage of the divorced person** not established in these confessions (for example, Catholic is divorced by the Lutheran consistory) is impossible (Tserkovnyi Viestnik [Church Messenger] 1894, 13).

If an **Orthodox, married to a Lutheran by a pastor**, such marriage being considered illegal and void, will turn to an Orthodox priest with the request to marry him to another bride, then the priest can marry him only when the definition of the recognition of the illegal and void marriage will stand in legal order and the person standing in this marriage, will present the appropriate permission for the entry into a new marriage (Tserkovnyi Viestnik [Church Messenger] 1894, 41).

<sup>11</sup> By the Supreme approval of 24 Dec. 1883, the requirement standing in article 67, part 1, vol. X the obligations of heterodox **foreign citizens, living abroad and marrying Russian Orthodox citizens there** is recognized as excessive (see S. Grigorovsky, "Sbornik tser. i grazhd. zak. o brake [Collection of Church and Civil Laws concerning Marriage]", p. 35).

<sup>12</sup> Under article 29 of the Ust. Dukh. Kons. [Ustav of the Spiritual Consistory] (see also the Uk. Sv. Syn. [Decrees of the Holy Synod], 25 Aug. 1865, this **written document** is presented to the diocesan Hierarch or to the Consistory at the beginning of January of the following year together with an extract from the metrical books about the wedding given with this document for the person (see p. 960 above).

The form of the document follows: "by this I, the Undersigned (vocation, first name, surname, religion) certify that I married ... (vocation, first name, and surname), of the Orthodox confession. In the education of children of both sexes from this marriage I will comply with the laws of the Russian state, I will baptize and bring them up in the Orthodox faith" (Svod Zakonov [Code of Laws], vol. X, part 1, supplement to article 67; Ust. Dukh. Kons. [Ustav of the Spiritual Consistory], article 27).

Persons of other confessions, from which the document based on article 67, vol. X is selected, are guilty of the infringement of the canons specified in it, answers to article 190 (note 2 on p. 973) of the Ulozhenie o nakazaniakh [Criminal Code of Laws] (Reshenie Ugolovnoi Kassatsionnoi Departamenta [Decisions of the Criminal Appeals Department], 1893, № 46).

<sup>13</sup> It is only allowed at **marriages of the Orthodox with the non-Orthodox** that, at the will of the interested party, persons, having been married in the Orthodox Church, can also turn for the blessing of the marriage to that church to which the heterodox person belongs (Fr. Hojnatsky, p. 30).

<sup>14</sup> For **marriage fulfillment** between an Orthodox person and a non-Orthodox Christian person, **before the fulfillment of this by an Orthodox priest**, when there is not in view formal certificates from the necessary spiritual authorities that, by the canons of the Eastern Church, there are presented no obstacles to this marriage, priests of the Roman Catholic, Armenian-Gregorian, Armenian-Catholic and preachers of the Protestant confessions, depending on that, no subsequent obstacles to that marriage appeared or have not appeared, and by other circumstances of the matter, are inflicted: either for the monetary collection not more than fifty rubles or for the temporary removal from their duty for two to six months, or even removal from their place (Ulozhenie o nakazaniakh [Criminal Code of Laws], article 1576).

<sup>15</sup> During a vacation in the country **of the prisoners of war**, who have married Russian Orthodox citizens during their commitment in Russia, a written document whether they intend to return to their wives is required from them. And if their absence is

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for more than two years, then the wives receive freedom to enter into marriage (Svod Zakonov [Code of Laws], vol. X, part 1, article 77).

In other cases of persons of feminine gender, who have entered into a legal marriage **with foreigners**, who are standing in the service, either as a citizen of Russia (whatever their religion, Orthodox or non-Orthodox, or their spouses), follow the status and residence of their husbands (Svod Zakonov [Code of Laws], vol. X, part 1, article 102).

Russian subjects, married to foreigners and owing to that considered as foreigners, may after the death of their husband or her divorce from him, to return to Russian citizenship, and in that case is only obligated to present the governor of that province where she elects to reside the appropriate certificate of the termination of her marriage. The certificate, issued by the governor that the signifying document has been presented to him, serves the bearer as proof of her return to Russian citizenship (Svod Zakonov [Code of Laws], vol. IX, law about status, article 1026).

**Foreigners**, marrying Russian citizens, but equally foreign women, who have become citizens of Russia, become Russian citizens through that, without fulfillment of the oath by the individual. Widows, but equally divorced wives, keep the citizenship of their husbands (ibid., article 1028; see note 2 on p. 1107).

The above-stated article 102, part 1, vol. X of the Svod Zakonov [Code of Laws] does not at all mean that the entry into marriage with the Russian citizen, **who has passed into foreign citizenship** after the marriage with the Russian subject. Precisely as well in articles 100, 101 and 103, part 1, vol. X and article 1028, vol. IX does not indicate the transition to foreign citizenship of the husband of the Russian subject made by her foreign woman (Decisions of the Grazhdanskaia Kassatsiia Deputatsiia [Civil Court Depositions], 1868, № 526).

<sup>16</sup> From article 68, part 1, vol. X of the Svod Zakonov [Code of Laws] it follows that, on the one hand, natives of Finland Protestant confessions, **who were married out of the boundaries of Finland** with Orthodox women, lose the right to baptism and education of their children in the Protestant faith, but are obligated to baptize and bring them up by the canons of the Orthodox Church. On the other hand, the same natives of Finland Protestant confessions **who were married within Finland** with women of the Orthodox confession, retain for themselves the right if they wish, for the baptism and education of their children in the Protestant faith and in the event that these children are born during the residence of their parents out of the boundaries of Finland (Prakticheskoe Rukovodstvo dlia Sviashchenno Sluzhitelei [Practical Manual for Church Servers], p. 242).

Judging by the resulting explanation, at the wedding of natives of Finland with Orthodox women beyond the borders of Finland, it is also required of them the established article 67, part 1, vol. X the certificate (refer to the note for article 27 of the Ust. Dukh. Kons. [Ustav of the Spiritual Consistory]).

<sup>17</sup> Matters about the **divorce of the marriages done according to the rites of a foreign confession**, in case of subsequently uniting of one or both of the spouses to Orthodoxy, under the jurisdiction of the spiritual court of the Orthodox Church (Opredelenie sviatago Synoda [Decisions of the Holy Synod] of 15 Jun. 1887, № 13), although the specified joining occurred, when the divorce of these persons is already raised and the matter proceeds in the spiritual court of their former confession (Matters of the Holy Synod, 27 Sept. 1850, № 349; see Sbornik tser. i grazhd. zak. o brake [Collection of Church and Civil Laws concerning Marriage], by S. Grigorovsky, p. 37).

<sup>18</sup> According to the opinion of some, by the above-stated article of the Svoda Zakonov [Code of Laws] in any case the Orthodox priest is not granted the right to **crown both Christian persons not of the Orthodox confession**, but only the canon is established, according to which, if it happens that the Orthodox priest has crowned the marriage of the specified persons, then the marriage is recognized as valid and the divorce of such a marriage is done by the canons of the Orthodox Church, and, by this opinion, the priest who crowned such a marriage is subject to punishment "for the lawless act" (for more details, see Rukovodstvo dlia Sel'skikh Pastyrei [Manual for Village Pastors] 1894, 28).

But, according to others, the Orthodox priest can crown the marriage of both Christian persons not of the Orthodox confession, in the selected article 65, part 1, vol. X of the Svod Zakonov [Code of Laws] case (see the Prakticheskoe Rukovodstvo dlia Sviashchenno Sluzhitelei [Practical Manual for Church Servers], p. 242; S. Grigorovsky, "Sbornik tser. i grazhd. zak. o brake [Collection of Church and Civil Laws concerning Marriage]", p. 37).

By the Ruling Senate it also has been explained that it is also necessary for the validity of the marriage that it be done by the clergy of the relevant confessions. However, the exception in this respect is unique. The law allows for marriages of non-Orthodox persons are accomplished by the specified article 65, part 1, and vol. X conditions by the Orthodox priest. Such marriages are recognized as valid, without looking at the fulfillment by an ecclesiastic not of that religion to which the married belong, and this exception is allowed by the law only in favor of the Orthodox Church dominating in the state (Reshenie Ugolovnoi Kassatsinnii Departamenta [Decisions of the Criminal Appeals Department], 1891, № 10).

Thus, according to article 65, part 1, vol. X of the Svod Zakonov [Code of Laws], the Orthodox priest by this article in the specified case may do the marriage of both persons of non-Orthodox Christian religions (without their becoming Orthodox and, of

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course, without a capture from these persons of a document about the education of children from this marriage in Orthodoxy). And, according to the opinion one (see *Prakticheskoe izlozhenie tserkovno-grazhdanzki postanovlenij* [Practical declarations of church-civil rulings], p. 107; *Rukovodstvo dlia Sel'skikh Pastyrei* [Manual for Village Pastors] 1890, 1), the fulfillment of such a marriage should be with the permission of local Hierarchy, but under the indication of others, such marriage can also be done without asking for hierarchical permission for this (see *Tserkovnyi Viestnik* [Church Messenger] 1896, 27; *Samarskiiia Eparkhial'nyiia Vedomosti* [Samara Diocesan News] 1898, 1).

Persons, belonging by birth and baptism to the Orthodox confession, without looking at their confirmation according to the rites of the Evangelical Lutheran Church, should be honored by the Orthodox. **The marriage ceremony done by the pastor over Orthodox persons** cannot become valid under our civil and church laws of marriage. But is only criminal, when done with obvious abuse of authority, with the church blessing, by the pastor, of spousal co-habitation, not having the meaning of the sanctified Church marital union and by this invalidity, the pastor is liable to punishment according to article 1575 of the *Ulozhenie o nakazaniakh* [Criminal Code of Laws] (*Reshenie Ugolovnoi Kassatsinnii Departamenta* [Decisions of the Criminal Appeals Department], 1891, № 10).

<sup>19</sup> According to article 1564 of the *Ulozhenie o nakazaniakh* [Criminal Code of Laws], for entry into **marriage with non-Christians**, if these latter do not convert to Christianity, those guilty are punished the same as those who entered a 4th marriage (See note 2 on p. 1111).

<sup>20</sup> Marriages of non-Christians, accepting baptism, if they are monogamous, are protected by their power without the confirmation of these weddings by the canons of the Orthodox faith, but with that, however, that the non-Christian spouse has signed a document that children, who are henceforth born from such a marriage, will be baptized according to the rules of the Orthodox Church and will in no way bring them up according to one's own law. For **default of the duty** stated in this signed document, the law does not directly establish any responsibility, the meaning of the law in cases of this sort quite falls under the action of article 186 of the *Ulozhenie o nakazaniakh* [Criminal Code of Laws] (*Reshenie Ugolovnoi Kassatsinnii Departamenta* [Decisions of the Criminal Appeals Department], 1893, № 46), according to which article the default of the specified duty results in divorce and the punishment of the guilty is deprivation of all rights of position and exile to settlement in Siberia.

<sup>21</sup> Marriage remains in full force also when **one of spouses become Christian**, although this marriage has been concluded in relationship degrees forbidden by the Church (see S. Grigorovskiy, "Sbornik tser. i grazhd. zak. o brake" [Collection of Church and Civil Laws concerning Marriage and Divorce], p. 38).

<sup>22</sup> The parish priest, because all matters concerning the divorce of marriages are under authority of the supreme spiritual authority, should not start by himself without the permission of **diocesan authorities** the marriage of persons, who after converting to Christianity leave their present wives and wish to enter into a new marriage with persons of the Christian confession.

<sup>23</sup> If the marriage does not terminate, then neither the husband nor the wife is permitted **continued residence in provinces**, where the Jewish settled way of life is prohibited (*Svod Zakonov* [Code of Laws], article 81, vol. X, part 1).

*S. V. Bulgakov, "Handbook for Church Servers", 2<sup>nd</sup> ed., 1274 pp. (Kharkov, 1900) pp. 1119-1127.  
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