

DECLARATION AFTER THE MARITAL SEARCH FOR OBSTACLES TO FULFILLMENT

If after the announcement or the search, a **positive obstacle is revealed** or will already be declared at the time of such wedding, then the priest, having stopped the marriage service, informs the local Bishop on this; if he cannot resolve that by himself, presents the matter to the scrutiny of the Holy Synod¹ (Svod Zakonov [Code of Laws], vol. X, part 1, article 29).

Under present laws there is no necessity of the obligation to marry an undesirable person, and the promises given by the groom or bride to another person does not obligate their marriage with these persons (Tserkovnyi Viestnik [Church Messenger] 1894, 1, 43; 1895, 43). Therefore the charge, raised against the groom **in his promise to marry some other maiden**, and the request (although written) with whosoever parties about his non-admission to marriage with those chosen by him cannot serve as an obstacle to marriage with those chosen by their people. In that case, when charge will be leveled against the groom in his not keeping his promise to marry either some maiden or widow, the priest can conclude: before drawing up the search (but if the search is already written, then before doing the wedding itself) to inform the parents or trustees of the bride of the charges raised against the groom, but the same also applies to the bride, and if after that the bride and her parents will still insist on the marriage, then crown the marriage. Even the solemn (i. e. in the presence of, for example parents and relatives of the bride, standing witnesses and so forth) promise of the groom to marry not concluding in a marriage and besides being seduced by his promise, although it also involves the category of criminal offences, but does not by itself attract the restriction of seduction in the right to marry according to one's choice and the necessity to certainly marry according to his seduction.

In view of this, the Kishinev diocesan authority issued the order, according to which priests of the diocese in that case when the **charge of seduction** will be leveled at the groom, it should turn out this way: on charge raised against the groom to inform the parents or trustees of the bride and the bride, to read article 1531 to all of them. Statutes about punishment² and if, despite expected consequences for the charge of seduction against the groom, the bride and her parents insist on the marriage then they crown them. Deviation from this rule, by the remarks of the Kishinev diocesan authorities, would encourage debauchery and would give an occasion to dishonor women more often with the completely unfair charge to discontinue and after that to completely dissolve the marriage (Kishinevskiiia Eparkhial'niia Vedomosti [Kishinev Diocesan News] 1880, 8).

In a similar pattern to the approach of the specified case the priest also consults "the Tserkovnyi Viestnik [Church Messenger]" (see Tserkovnyi Viestnik [Church Messenger] 1894, 7; 1894, 1; 1895, 42).

By explanation in the "Rukovodstvo dlia Sel'skikh Pastyrei [Manual for Village Pastors]", considering the deception or seduction by the groom of whatever maiden or woman

she can herself seek satisfaction by lawful judicial order, but not turn to the priest with complaints or requests about the non-admission of the groom to the wedding according to his choice alone³ (Rukovodstvo dlia Sel'skikh Pastyrei [Manual for Village Pastors] 1886, 45; 1888, 45; see also the Tserkovnyi Viestnik [Church Messenger] 1894, 43).

¹ By explanation of some, quite lawful **obstacles** thus should be taken, such as the close relationship between the groom and bride, of insufficient age and so forth (P. P. Zabelin, "Prava i Obiazan. Presvit. [Rights and Obligations of the Presbyter], p. 253).

See pp. 1102-1103 above.

The Samara diocesan authorities declared to the diocese that, in the case of revealed valid obstacles during the same weddings, the priest should stop the wedding when the specified obstacle will be revealed before the threefold announcements, with the blessing of the priest with the words: "O Lord our God, through the glorious and honorable crown, I" (Samarskiiia Eparkhial'nyiia Vedomosti [Samara Diocesan News] 1898, 1).

That same diocesan authority recognized as necessary to make a general order concerning disrespectful delays of the fulfillment of marriages by the clergy to the diocese. This order was made by the local inspection Consistory concerning the superficial delay allowed by one of the clergy in the marriage of one of the peasants in the Samara province. For the protection of parishioners and in other places of the designated diocese from similar superficial delays by the clergy for the crowning of marriages without obstacles, the specified diocesan authorities gave this peasant the right to search with the clergy the losses suffered by him when there was no need to ask the diocesan authorities for permission to marry (see Tserkovnyi Viestnik [Church Messenger] 1894, 38).

² Under article 1531 of the Ulozhenie o nakazaniakh [Criminal Code of Laws], "for **seduction** not concluding in marriage the solemn promise to marry her, he is guilty if he does not keep the promise and is imposed the deprivation of something under article 50 of this Statute, the special rights and advantage and imprisonment for a time of one year and four months to two years". The deprivation of some special rights specified in article 1531 and advantages under article 50 of the same Statute is limited: for noblemen it is the prohibition to enter a state or public position, to participate in elections and to be elected to whatever positions even as trustees to assigned guardianship of a noble family; for church clergy it is an exclusion from spiritual ranks, for honorable citizens, merchants and people of all other statuses it is prohibition to participate in elections and to be elected in honorable or attached to positions of authority (Ulozhenie o nakazaniakh [Criminal Code of Laws], article 50).

If the maiden is a minor though and 14 years old, is seduced and deceived by the trustee, or teacher, or another person, having, according to his vocation or exceptional circumstances, supervision over her to a larger or lesser degree authority over her, then those guilty of this are subject to deprivation of all special, personal rights and according to their given status, the rights and advantages and exile for life to Siberia or turned over to a correctional guardhouse section. By this punishment, but with the raising of these two degrees, her servant, or the servant of her parents, trustees or relatives (Ulozhenie o nakazaniakh [Criminal Code of Laws], article 1532) is exposed as guilty of seduction of the minor.

³ In vain, some address the diocesan authority with requests for their satisfaction from the groom in that case when the groom, who betrothed the bride and led to the expenses of her parents, results in the **refusal of the proposed marriage**. The matter is that the introduction into marriage cannot be caused, as was repeatedly explained by the Ruling Senate, by any obligations: the promise to marry has the character of being purely moral and can be freely changed at any time up to the very moment of the fulfillment of marriage by the church ecclesiastic. Therefore the promise to marry cannot be given the shape of juridical obligations, i. e. contracts, and any contract establishing fiduciary consequences in case of default of such promise, is insignificant (Grazhdanskaia Kassatsiia Deputatsiia [Civil Court Depositions], 1817, № 230, 1870, № 1828, 1871, № 261). The law bestows the right to persons about to be joined to not differently marry, than according to their mutually easy consent (Svod Zakonov [Code of Laws], vol. X, part 1, article 12), and parents to grant permission for their children to marry (ibid., article 6); refusal of a word or the promise, given by the groom, the bride or their parents, but equally the non-notification about refusal of a word or the promise does not give the right of action about compensation for the losses suffered in preparation for the wedding; even in that case when in actions of the person, who committed the refusal, would be found a premeditated deceit or other illegal offence, and then the prosecution of the guilty would be raised for the victim for an illegal offence, but in any case not for the refusal in the permission nor in the expression of consent to the entry into marriage [resolution of the Grazhdanskaia Kassatsiia Deputatsiia [Civil Court Depositions], 1870, № 403; 1877, № 230; 1889, № 124]; the contract, having the subject or their payment and for assistance to the building of the marriage, as such assistance as opposite to the purity of the teaching of the Holy Church about the marriage union, offensive to its worthiness and may also shake the morals of good order in families is insignificant (-1867, № 70); generally the right of combined persons to marry only by mutual and unconditional consent and the right of parents to give permission for their children to marry is not limited by anything, and the law does not constrain their will, even after having given the consent or permission to marry which, owing to different accidents in life, may be freely changeable (-1870, № 403).

That is why even on the petition to prohibit marriage fulfillment in view of the defaults of the promises, in view of suffered expenses, the diocesan authority should only refuse; but the pastor of the Church in this case should only use those moral measures, as his pastoral experience will show him and there are no lawful bases to refuse fulfillment of marriage at the invalidity of these or other measures (See Astrakhanskia Eparkhial'niia Vedomosti [Astrakhan Diocesan News] 1898, 3).

However, the diocesan authority may delay the fulfillment of marriage of the seducer. By the extreme measure, it is known that the resolution of the Astrakhan Bishop, of November 9, 1882, it was forbidden to begin the wedding of the groom with the bride, if before the marriage fulfillment it will be declared that there will be a complaint against the groom of the seduction of another in illegal co-habitation with him. It was forbidden to crown marriages in these cases until the matter was decided by the secular court (refer to comment 1 on p. 1115 and comment 1 on p. 1145; refer also to comment 1 on p. 1031).

*S. V. Bulgakov, "Handbook for Church Servers", 2nd ed., 1274 pp. (Kharkov, 1900) pp. 1144-1146.
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