

DIVORCE IN PHILIPPINE CONSTITUTION

PROBLEM: Divorce has become a hot topic these days in the Ultreyas and study clubs of my parish, because of the publicity given it by the Constitutional Convention. Sometimes even delegates to the Con-Con attend these forums.

My questions are:

- 1) *What would you say if divorce were introduced into the new Philippine Constitution?*
- 2) *Would you point some objections or disastrous consequences of it, if any?*

A Parish Priest

ANSWER: Few topics can be more important for the well-being of both State and Church in the Philippines than the subject of divorce. For once divorce is admitted as part of our legislation a series of fatal consequences will be set in motion against the very foundations of our homes, against the lives of the spouses themselves and, still more ominously against the moral life of children, the nation's children. Nay against the Christian life of the members of the Church and against the Church herself, the destructive effects of such law would defy all calculations. In order to be clear in such vital matters we will take the points of the Parish Priest in the order he listed them.

WHAT ABOUT A LAW ADMITTING DIVORCE IN THE PHILIPPINES?

1. DEFINITION

We speak of divorce in the very sense that it is understood by our Delegates to the Convention, i.e. a divorce that **dissolves the marriage bond** which consists in the very essence of the matrimonial contract. Once the **bond** is pronounced broken by such a law, the parties would be allowed by the same law to marry again. This is how divorce is understood by nations admitting divorce in their legislation.

Divorce, by definition, has nothing to do with the bodily separation of the spouses which is called 'legal separation'. Indeed, in 'legal separation' the marriage bond is kept intact, and no way is open to any further marriage as long as the other party lives. The Church acknowledges this bodily separation in certain cases, adultery of one of the parties rightly being the more pertinent case. But in 'legal separation' the bond stands firm and no right to another marriage is given at all.

2. A MATTER OF FAITH THAT EXCLUDES 'OPINIONS'

Happily for Catholics, the outright immorality of a divorce decreed by human legislation is not a matter of opinion. It is a matter of faith defined as such by the Church, as all priests know. This doctrine has been endlessly repeated for centuries and was proclaimed again by the Second Vatican Council. And, after the Council, by Pope Paul VI in his strong protest to the Italian government. The fact, however, remains that in our ever more secularized society the laws of the Church are scorned by her own children, while the very natural law decreed by God from the beginning has become almost obliterated in many a conscience. Still, for our comfort, such is the unanimity in the Church about divorce, that no Catholic theologian directly impugns this dogma of faith, notwithstanding the coarse voices of the more unruly representatives of the neo-modernistic heresy and its 'new theology'.

3. A LAW ESSENTIALLY WRONG AND IMMORAL

The following is not an opinion but a part of our faith: if a law admitting divorce is introduced into the Philippine Constitution or Code, it could happen only through sacrilegious usurpation by our Delegates of a matter utterly outside of their field of competence. In a matter that God has reserved to Himself alone no man may arrogate competence. Evidently a Delegate can enjoy no more power than that given him by his electors. No man may delegate a right he does not possess. And no man has a right against God. And no Christian has a right against Christ. Logically, then, no Delegate may without sacrilegious usurpation vote for a divorce law.

Thus, if a law should be passed by our Delegates in favor of divorce such a law would be **intrinsically wrong**, as theologians say, namely, an immoral law which absolutely under no cir-

cumstances can be considered valid. Such a law would amount to a grave abuse of legislative power, and no Filipino citizen could be bound to accept it. On the contrary, every honest citizen from those in government positions to the humble voter should reject it. As St. Peter and St. John replied to the unjust legislators of old, "You must judge whether in God's eyes it is right to listen to you and not to God" (Acts, 4:19). We offer some considerations that may convince the impartial reader of the rationale of our position.

a. **Essential incompetence of civil authority** — That any law admitting divorce is a usurpation of divine right reserved to God Himself alone is clear from Gen. 2:23-24 as it was declared by the Lord Jesus: "It was not like this from the beginning". And "what God has united, man must not divide" (Matth., 19: 8 & 6). This applies, by the very words of the Lord Jesus, to all marriages in all parts of the world regardless of religion, custom or legislation by any government. So, it is evident that not without sacrilegious offence of God may any legislator vote the law of divorce anywhere in the world.

b. **The law of divorce is a sacrilegious usurpation of Church's right** — Indeed, only to His Church did the Lord Jesus commit His authority over His sacraments. For this reason it is a part of the Catholic faith that for all Christians, Catholics and others, all matrimonial causes belong to the Church alone (cfr. Denz. 982, 1559). And here in the Philippines, it is a fact that the great majority of Filipinos, Catholic or not, are indeed Christians. On this score a new dimension will be added to the guilt of the Delegate who would vote for divorce, in a such a flagrant act of usurpation of the right of the only One Church of Christ.

3. OTHER EVIL EFFECTS

The innumerable disastrous effects that would follow from divorce should be enough to deter a conscientious Delegate to vote in favor of divorce. No one can enumerate the evils that would flood the nation with the introduction of this bill. Not only for the parties themselves and for their children, but also for the family and society at large, especially with regard to the education of divorcees' children, heredity, legitimacy and a host of other evils. However, the most lethal effect of all will be the pollution of public attitude towards the sacredness and indissolubility of marriage. Once the immoral law enters into

the ordinary practice of our courts, our citizens will take for granted that marriage could be treated just as any other contract and that it would be the normal right of government officials to pass judgment on matrimonial causes. Actually, to de-christianize the Philippines and to desecrate our society few devices possess the effectivity that divorce, by its own nature, truly possesses.

We hope that these considerations will help the discussants in the Ultreyas and study clubs of the Parish Priest.

OTHER OBJECTIONS AND FURTHER IMPLICATIONS

1. THE MORAL SENSE OF OUR PEOPLE

With a provision for divorce all the blessings enjoyed for decades of no-divorce laws will be jeopardized and will gradually disappear from our society. The desecration of marriage will foment pagan secularism and rampant eroticism which characterize the countries where divorce has been at the disposal of petitioners. Soon we will have the scandals we witness among so many prominent people, and our movie stars will start to swap partners as easily as they change dresses. Read the two examples below among the hundreds that fill the international press:

Divorced: George C. Scott, 44, talented non-conformist of show business, the actor who turned down his Oscar for "Patton" last year by Colleen Dewhurst, 47, statuesque stage and screen actress; for the second time in Santo Domingo, Dominican Republic, Feb. 2. Colleen married Scott in 1960, divorced him in 1965 and remarried him in 1967. The settlement gives her custody of their two sons, a house in South Salem, N.Y., and about \$100,000 a year. "It was a mistake to remarry," she told columnist Earl Wilson. "You can't go back to that first ecstatic glow." (Newsweek, Feb. 14, 1972)

Divorced: Lana Turner, 51, former Hollywood sweater girl, whose marriages have exhibited all the shedding quality of angora, from Ronald Dante, 51 nightclub hypnotist; in Santa Monica, Calif., Jan. 26. Married in May 1960, they separated six months later. Lana has now been divorced from seven husbands, beginning with bandleader Artie Shaw. No. 6 was Robert Eaton, author of a disputed Howard Hughes memoir. (Newsweek, Feb. 7, 1972)

With such examples, our young will start to move in these waters and will plan accordingly when approaching marriage, the most vital problems of their lives with an eye to future possibilities instead of the unbreakable union of undying love.

2. SINFUL COOPERATION WITH CRIMES OF OTHERS BY ALL WHO IMPLEMENT THE IMMORAL LAW.

This consideration suffices for a Catholic Delegate to oppose the bill of divorce. Indeed, the passing of such law will implicate their own conscience in a dreadful responsibility to God, but it will also have further repercussions on the conscience of all government officials whose business it will be to implement the law. From the incontrovertible fact that the law of divorce is sacrilegious and intrinsically wrong, all persons who may cooperate in its passage and its implementation shall be seriously guilty of culpable cooperation with the immoral acts of the citizens who will ask or demand the 'benefit' of such 'law'. Thus, the following persons shall be involved in serious sinful cooperation:

- a. The Delegate who votes in favor of divorce.
- b. The partner — singly or both — who seeks divorce.
- c. The judge who pronounces the divorce's sentence.
- d. The advocate, i.e. the lawyer who defends a client, even if he happily loses his case.
- e. All other cooperators in the case, such as advisers, those who help with expenses, etc., each one of these according to the measure of his participation in the case.

Evidently, the most responsible are the Delegates. They are the fathers of the pernicious law and their influence will continue for as long as the law is not repealed or amended. Then the judges who pass sentence against a formal decree of God, of Christ and of their own Church. Lastly, the lawyers who defend the clients. Apart from the offences against God — this is what really matters most — Catholic judges and lawyers who treasure their faith and hope for a life of immortality may feel obliged in conscience to leave their posts of responsibility rather than betray a conscience they have nurtured with their faith and the teaching of their Church, with the dreadful consequences that our courts will be taken over by unscrupulous judges who have no regard for the honor of God and the norms of the Church of Christ.

3. A WORD OF HOPE

The foregoing are just the salient points of the innumerable consequences involved in the creation of divorce law. The discussants of the Parish Priest may contribute with deeper and fresher arguments from their own research and experiences. But we believe that if we, priests, and more so bishops, only be true to our duty of explaining these points of faith and morality to our Catholic Delegates, given the majority of Catholics among them, our country will be delivered from the threatening scourge of divorce. It would be ironic that we, Catholics, would introduce the destructive law in the Philippines through the instrumentality of our own Catholic votes.

It is true that no one is supposed to impose his opinion or his beliefs on anyone else. It is also true that our separated brethren and other non-Catholics Delegates may, in conscience, feel themselves obliged to take a position contrary to ours. No one wishes to force them to vote against divorce. But we speak of Catholics and of their duties and rights as Catholics. With no malice towards anyone, the Catholic Delegate has the right to vote what his conscience proposes to him as good for the people, for Christian family and society, and together with his right he is in possession of a most sacred duty to vote according to his well informed conscience.

We do frankly believe in the personal integrity of our Delegates and their fidelity to God to His Church and to the people who elected them. But it is not easy for all to master the biblical, canonical, theological sciences. Our Delegates have the strict right to demand from us, their priests, and especially from our and their bishops, the proper guidance so that the rights of God and society will be preserved. If we only do our duty in propounding clearly the faith and the Church's doctrine, our Delegates, no doubt, will follow their right conscience and use their sacred right to vote against divorce in our nation.

• QUINTIN MA. GARCIA, O.P.