

"The Judicial Evolution of Marriage," by Emile Stocquart, advocate at the Court of Appeals at Brussels. (Text in French). One volume published by Oscar Lamberty, 70 Rue Veydt (Quartier Louise), Brussels. Price 3 fr., 50c.

During these last few years, particularly in France, marriage has been the object of strong attacks, both as an indissoluble union and as an institution regulated by the state. Publicists like M. Naquet have preached the reign of absolute liberty. The Margueritte brothers have argued for the dissolution of the conjugal union at the pleasure of one or the other of the parties, a petition along these lines having been addressed to the Chamber of Deputies in 1902. It is therefore not without interest to trace the judicial evolution of marriage in different countries to seek out from whence it comes, how the institution was built up, how it was successfully developed and in fine, how it arrived at the formula with which it is clothed to-day.

Different elements bear on the evolution of matrimonial laws. In the middle ages it was the political situation, the relations existing between the church and the state, in the 18th century it was the writings of the philosophers, in our days it is the social condition of the woman. Religious reform has exercised a preponderance in all the manifestations of the human intellect, and law has not escaped its influence. The canons of the Council of Trent constitute the official response of the church to the reformation. It is the code of catholic marriage, although these decrees are not received in France. (An entire chapter of M. Stocquart's work is devoted to Canon law.) In 1579 the Ordonnance of Blois made marriage a solemn contract, providing the penalty of death for a marriage without the authorization of the parents.

The state then became strong. It became aware of its rights and of its duties and understood that marriage is the basis of good order and of the prosperity of society. These ideas of liberty of conscience, having as their precursor the theory of civil tolerance, brought about the natural result. Louis XVI published the edict of 1787, according to which the marriage of Protestants was subject to the laws of the Catholic church.

Then the Revolution broke out. At the sitting of the 27th of August, 1791, the Assembly decided that the law should only regard marriage as a civil contract. On the 30th

of August, 1792, the Deputy Aubert Dubayet, at the end of a speech of three minutes, had it declared by the Legislative Assembly that it was a dissoluble contract. At this grave epoch of the history of France, they experimented with legislative solutions comparable to those whose advisability is so strongly disputed to-day. These innovations only resulted in disorder, if not in ridicule. It was necessary to return to the regular marriage with its character of insolubility, the basis of all the family edifice, divorce not being admitted except for grave and exceptional causes.

In 1801 Napoleon Bonaparte signed the Concordat. Reserving the independence of the civil power, he forbade the priests to give the nuptial benediction except to those who shall have contracted marriage in due form before a civil officer. In 1804 the civil code was promulgated in which the lay character of the laws was one of the innovations, marriage remaining a solemn union strong with all the power of the civil law, the State presiding over the ceremonies. This change eliminated the ecclesiastical authority from the domain of the civil law, but there is nothing to prevent believers from kneeling before the priests and soliciting the nuptial benediction.

Such is a very concise resume of the many subjects treated by the author.

The chapter before the last is devoted to an exposition of the doctrines of French jurisprudence on the question of the conflict of laws. This is the practical side of the work, discussing the validity of the marriages of strangers in France and of the French in foreign countries, the punishment attached to the neglect of the "publication," of the "sommation respectueuse," and the absence of the paternal consent as well as the validity of marriages contracted at an Embassy or Consulate. Here is also treated the law of the 29th of November, 1901, conferring on Diplomatic agents and on French Consuls the right to celebrate a marriage between a Frenchman and a stranger.

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