

Sudan United Mission,
Ibi,
via Kaduna.
18th September 1928.

The Members of The Council of Missions
For Northern Provinces, Nigeria.

From the beginning the Sudan United Mission has asked its converts to marry under the Marriage Ordinance. In common with all Missions, however, it found the Marriage Ordinance to be unsatisfactory. Of recent years the Mission has continued to support the Ordinance but with the proviso that the Government would give powers to Residents to hear pleas for divorce.

The S.U.M. on several occasions asked the Government to make this concession but on each occasion the Government refused. Bishop Smith was instructed by the Miango Conference to ask the same concessions but I have never been informed of the result. The Port Harcourt Conference devoted a great deal of time to the consideration of the form of marriage and appointed a Committee of Investigation but since there is to be no meeting of the Conference for five years any action taken by the Conference is thrust into the future.

In the S.U.M. Field meantime, in certain Districts, a dislike of the Ordinance was growing in the Church so that members in good standing and of good life, examining the Ordinance dispassionately pronounced it to be unsatisfactory. Since continued support of the Ordinance would therefore have to be accompanied by wide-spread discipline and threatened the growth of the Church it seemed important to determine finally whether the Mission was justified in continuing to force on the Church an Ordinance which they themselves know to be unsatisfactory.

It seemed to me that the first thing was to discover whether any action was to be expected from the Government which would modify the unsatisfactory features of the Ordinance. I seized the opportunity when the Lieutenant-Governor, (Mr. Palmer), was on a journey of inspection up the Benue to ask for an interview on the subject of the form of Christian marriage in Northern Provinces. The interview was granted and I prepared for it by submitting to the L-G some days previously, a memorandum, in which I collected, as far as I was able, all the facts that seemed to bear on the subject.

In the memorandum I told the L-G that I approached him as the Field Secretary of the S.U.M. and as Secretary to the Council of Missions for N. P. I am not sure that I had authority for this letter but since Bishop Smith has been given that task and I had not heard the result I thought it would not be inconsistent with the wishes of the Council if I approached the L-G in their name, too.

I enclose a copy of the memorandum which I gave to the L-G and a copy of my minutes of the interview as far as it concerned marriage.

Though the L-G's reply is not official I am satisfied that we must not look for any concessions by the Government to remove the unsatisfactory features of the Marriage Ordinance or of the divorce law. In the S.U.M., therefore, at our Field Council on the 17th November and subsequent days I propose to bring this matter up for discussion and I am of the opinion that at that Field Council the S.U.M. will

abandon marriage under the Ordinance and proceed to make rules for the basing of Christian marriage on Native Custom.

Since in the Miango Conference we began to take action together I should like the other Missions to be, at least, aware of this contemplated change by S.U.M. I should like further to have an opportunity of discussion with the other Missions; so I suggest, therefore, that a Council of Missions in N. P. be called. I have looked up the minutes of Miango Conference and find that the means by which a meeting of Council shall be called is not given. Presumably, however, the Chairman, Bishop Smith, should call it. I do not know whether he is back in Nigeria yet. I shall try to get in touch with him; but whether our meeting could be officially called a meeting of the Council of Missions or not, would it not be profitable for the Secretaries to gather? No doubt, besides marriage there are subjects which we could profitably discuss.

With all this irregularity I am at a loss to know what to do. It seems to me, however, that the Secretaries should meet either on Wednesday the 14th or Saturday the 24th November at Miango, (if we can presume on the kindness of the Sudan Interior Mission and if it is convenient for them), or at Forum, (S.U.M.). Our own Field Council I am holding at Forum from 17th to 23rd November so as to be convenient for this Meeting of Council of Mission, should it be held.

If it will not be considered presumption on my part I suggest, therefore, that in answer to this letter you wire me if you will come to a meeting of Council of Missions (official or irregular) and which date you prefer. On receipt of telegraphic answers from the Secretaries I will make the choice of date and wire each Secretary, or if the majority cannot come cancel the meeting. I shall find out also from Mr. Playfair whether Miango is available and wire place of meeting.

Matters of obvious interest to all Missions, even if they are only reported on are consequences, if any, of the meeting of Mission and Governor in London 1927. Government action with C.M.S. Zaria, and with Church of Brethren. Report of Government Conference on Education with the suggested developments in Pagan Districts. Subsidy for hospitals. Preparation for Miango Conference 1929 by the drafting of resolutions to be submitted to the Conference.

With every good wish and continued prayer for blessing on your work and on our common action, I remain

Yours sincerely,

The new Marriage Ordinance of Kenya Colony has been mentioned freely in recent years and a summary of it is contained in Minutes of Miango Conference. Possibly such a law would suit Nigeria; but I am confident some years will elapse before the Nigerian Government moves to make one. I think the Mission will be wiser to take action convenient to their own policies and force Government to legislate later for the situation created by them.

Sudan United Mission,

Ibi,

31st July 1928.

His Honor,

The Lieutenant Governor,
of Northern Provinces,
Nigeria.

Memorandum on form of marriage

Sir,

I have asked through the Resident, Benue Province, that you will concede me an interview at Ibi that I may bring before Your Honour the subject of the form of marriage to be adopted by Christian Missions in the Northern Provinces. I have thought fit to prepare for this interview, if you should be so kind as to grant it to me, by putting into the following memorandum my own views on the subject, which views are, I think, those held by the Missions generally in the Northern Provinces.

I approach you in a dual capacity--as Field Secretary of the Sudan United Mission and as Secretary to the Council of Missions for Northern Provinces, Nigeria.

I am aware that on several occasions in late years Missions have approached the Government, either through the Residents or direct to the Secretary, Kaduna, asking for some modification in the Marriage Ordinance but the reply has hitherto been so unsatisfactory that that must be my excuse for approaching Your Honour again.

Missions view marriage as a civil contract and a religious vow and as deserving, therefore, the support of both State and Church.

In Christian countries the civil law has usually been formed by Christian teaching and is therefore acceptable to the Church.

In Nigeria we have no such conformity. Missions are in touch on the one hand with the highly organized civil and religious system of Islam whose law of marriage and divorce is repugnant to Christian ideals. On the other hand they are in touch with animism in a host of tribes whose customs of marriage differ.

In one tribe a man is required to give a woman in exchange for a bride, in another the children do not belong to the parents but to the grandparents. In other tribes marriage is not raised far above promiscuous cohabitation. I need not go into the various customs. It requires no argument to show that if the Church in Northern Provinces accepts native customs as a basis for Christian marriage then the practice of the Church will vary throughout the Protectorate since it would have to accept what is regarded by the tribe and by the Nigerian Government as the custom of the tribe.

Faced with these difficulties most Missions in the Northern Provinces preferred

to ask their converts to marry under the Marriage Ordinance, which is now that of 1916.

The Ordinance provided a uniform law for all Districts and met the Church's need for a form of marriage which was binding for life and mutually exclusive. (Not of course ruling out the fact that the Church accepted adultery as a valid ground for divorce).

In working, however, it did not appear that the Ordinance afforded the protection which the Missions expected from their acquaintance with similar ordinances in Europe.

It was not clear for instance that two people married under the Ordinance could have full claim to their children if native custom did not allow it. Or if a woman was deserted by her husband did it determine that the children of the marriage remained with her if the custom of the tribe was otherwise. In the few instances of this sort of which I have personal knowledge the District Officer gave rulings consistent with European sentiment; but it did not appear that he has clear law to guide him in the matter.

The law of inheritance, which follows English practice, is applicable only to the Colony, and a Christian woman whose husband had died might be stripped of nearly all if native custom so dictated. Possibly in some districts custom would hand her as a chattel to another relative as a wife.

The Government some years ago definitely determined to refuse to prosecute cases of bigamy arising out of the Ordinance.

The Marriage Ordinance of 1916 is, therefore, a very unsatisfactory law.

Missions, however, would probably put up with its faults and with Government refusal to support its clauses were it not for the fact that persons living in Northern Provinces, married under the Ordinance and with valid grounds for divorce, find that divorce is made so difficult and so expensive as to be impossible. The only way to dissolve the marriage tie is to appear before the Supreme Court either at Lagos or in one of the Circuit Courts. For natives from a Northern Nigerian tribe to go to a Southern town of quite foreign atmosphere, to an elaborately constituted court, to take witnesses and to pay travelling expenses and all court fees is impossible. In cases where marriage is a failure and where one of the parties to the marriage is innocent, a Mission finds it impossible to release the innocent party to make a new marriage and a new life and is logically driven to put that party under discipline if he or she contracts a second marriage by native custom, though it is the only wise thing to do.

It is not the desire of any Mission to make divorce easy, rather they wish to strengthen and make more enduring and sacred the marriage bond but they insist that when all vows taken at marriage have been broken there should be a way to dissolve the tie.

As a remedy the Missions in the Northern Provinces individually and collectively have suggested that a Resident of a Province should be given powers to hear a plea for divorce by persons married under the Ordinance but have met with no favorable reply so far.

I should like to know if it is definitely the intention of the Government

not to make this modification in the Divorce Law. If it is not made I am of the opinion that the Marriage Ordinance of 1916 will be abandoned as unworkable by the Missions of Northern Provinces.

Possibly it is the desire of Government that the Ordinance should be abandoned and Christian marriage be based on native custom. This is already done by some of the Missions in the Protectorate.

Some of the Missions who have accepted native custom as a basis are fortunate to be at work in one large tribe whose custom is uniform and wholesome. It becomes more difficult in Northern Provinces where pagan tribes are smaller and customs, as I have already indicated, vary greatly and are sometimes obnoxious. One Mission may be at work in twenty tribes and in any case the practice of the Church will extend beyond the boundaries of a single Mission and ought to be uniform.

In any case, native custom is weakening and if Missions are driven by circumstances to base Christian marriage on native custom they have the unpleasant conviction that they are building on a vanishing foundation.

Whatever native custom is the Church will impose clauses upon it, for the Church will require a promise that the marriage will be binding for life and mutually exclusive, which no marriage by native custom is. If the Government accepts the presence of the Christian Church in Nigeria at all they must accept the fact that the Church will ask these things of the natives who accept Christianity; yet, these two promises which greatly change the nature of marriage are neither forbidden nor recognized by the Nigerian law if the Marriage License is not to be used.

If Missions determine to accept native custom as a basis of Christian marriage they will certainly try to make uniform the customs of the different tribes; eliminate the things which are obnoxious and reduce the requirements of native customs to, shall I say, consent of guardian and the payment of the bride price; demanding on the other hand that the parents should have control of any children born of the marriage. Such changes, I am sure, could be made by wise negotiations with the proper authorities in the tribes once the Missions have established confidence. But since this would be an intrusion by the Missions into civil law their action would have to be backed by, at least, the sympathy of the Government through local District Officers.

It would be far better if a religious ceremony in Church, following on a contract made by such modified native customs, should receive the full approval of Government as shown by the granting of an official certificate of marriage.

Divorce under such a system would presumably be granted according to an approved native custom and it would be for the Missions in each individual case to decide for themselves whether the divorced persons could continue in Church fellowship or not.

A law along this line has been recently introduced in Kenya Colony and I venture to predict that the circumstances that made it necessary in that Colony will make it necessary in Nigeria.

The Missions do not feel that a Christian form of marriage is a thing to be forced on a people by Government. It is something which the Missions must teach the people to desire and they only ask from the Government recognition of such a form of marriage when the people are ready to adopt it, even while the

numbers accepting it are still small.

Nor do we think that in agitating for a change in the present law we are pleading a purely Church case. It is an aim of Government to secure strong and good social customs. The family will always be the unit of the community and marriage the foundation of the family. Sound marriage is, therefore, necessary for a sound social community.

Tribal custom will gradually break down before the growth of big commercial cities and the increasing number of men who will leave their tribes to earn a living. The Church will come to replace the ideals of the tribe with a new communal idea which will bridge the tribes, and the laws imposed through the teaching of the Church will gradually replace the law of tribal usage.

Not only will her laws be accepted by Christians but their equity and value will be accepted by non-Christians, even as Turkey to-day is making new laws consistent with Western ideas whose inspiration is Christian.

Missions believe, therefore, that they are fighting a battle not against Government but for Government even though up till now the only recognition given by Government is a curt refusal to entertain their requests.

It appears to us that the form of marriage to be adopted by the Church is a subject which the Government and Missions might profitably examine together, since they both certainly seek the same end of a healthy social life.

I trust that Your Honour will be pleased to give me some indication of the line to be followed by Government in Legislation concerning this subject.

I have the honour to be

Sir,

Your obedient servant,

Field Secretary, Sudan United Mission.

Secretary to Council of Missions for N. P., Nigeria.

PRIVATE NOT for PUBLICATION

RECORD of an INTERVIEW with the LIEUTENANT GOVERNOR

Northern Provinces (Mr. H. H. Palmer)

at Ibi, 17th August 1928.

on-The Form of Christian Marriage to be adopted in Northern Provinces.

At the beginning of the interview the Lieutenant-Governor said I must not take what he said as being the official reply of the Government. Marriage, for example, was a legal and somewhat technical subject in which he could not commit the Government without first consulting the proper authorities.

Nothing which was said in the interview, therefore, was to be quoted as a statement of the Government. Throughout the interview the Lieutenant-Governor and I were alone and neither took any notes during the interview, which lasted about one hour and a quarter.

I had prepared for the interview on Marriage by submitting to the L-G, some days previously, a fairly long memorandum in which I attempted to review the situation from the Mission point of view. This memorandum should be read in conjunction with this record. The L-G said he had read my memorandum with much interest.

He offered no hope that the Government would accede to the request made many times by Missions, that Residents would be given powers to hear pleas for divorce in the case of persons married under the Marriage Ordinance of 1916.

The second part of my memorandum, however, he looked on with favour and thought the solution of our difficulties would be found by basing Christian marriage on Native Custom.

Asked if we could rely on the sympathy and help of Government in any wise attempt to modify an obnoxious custom, the L-G said, "Most certainly", and quoted as an example of such co-operation the Munshi tribe, where, recently by the collaboration of Government, Mission and Chiefs, a custom of marriage exchange of women was converted to a payment of bride price.

I then mentioned that one thing which has influenced us to adopt marriage under the Ordinance was that we had some two hundred girls of the Freed Slaves Home who were lost to their parents and tribes and who had no tribal custom therefore. We had to see them married as securely as possible. That a number of marriages so contracted have been failures yet we had no means of releasing the girls from what was an impossible situation. I asked if Government could not in a number of specific cases make a special order whereby the marriages would be annulled and so allow the girls legally to contract a fresh union. The L-G was interested in the suggestion and asked me to submit to him precise details of the various cases. This I promised to do.

To the Members of the Council of Missions.

I give herewith some correspondence relating to the form of Christian marriage which will be of interest in view of the fact that this subject will again be discussed at Niango this year.

H. C. Farrant 12th Sept. 1929.

Ibi, 1st August 1928.

The Secretary,
Church of Scotland Mission,
Blantyre.

Dear Sir,

In Nigeria at present we are struggling with a very unsatisfactory Marriage Ordinance and have so far failed to induce Government to alter it.

I understand that in Nyasaland Government has recently introduced a new Marriage Ordinance.

Whether it has or not I shall be greatly obliged if you can send me a copy of the Ordinance under which you work and tell me if you find it satisfactory.

I enclose a P.O. for 1/6.

With my very hearty thanks in anticipation and wishing you God's richest blessing on your work,

etc. etc. H.C.F.

The Manse,
Klanje,
Nyasaland.
10th October 1928.

Dear Sir,

Our Business Secretary has forwarded me your letter of the 1st August to deal with and I have today posted on the Ordinance dealing with Native Christian Marriages in Nyasaland.

The Government here introduced its first Marriage Ordinance in 1902. It was purely for Europeans but had a clause which brought the Natives into it and its chief value was that it brought the succession and property under English Law. Under Native Law the property went to the brothers of the man and the wife and children were totally ignored with consequent hardship. A certain number of Native Christians took advantage

of this.

In 1912 with the growth of the Native Church it was felt that something more distinctly Native should be introduced and the Federated Missions got the Government to introduce fresh legislation. This document I send you. It was meant to strengthen the Christian attitude to marriage and certain penal clauses were introduced to deter any who might fall into polygamous ways; but in practice it was proved that the Government did not fulfil their part of the bargain, in so far that they refused to prosecute and inflict the penalties and the missionaries were put into a false position, in so far that they were bound to explain the Ordinance and the consequences that would result on any infringement and yet when infringement took place Government did nothing. It was rapidly bringing marriage into an impossible position and we asked for an amendment. The Ordinance was clumsy and involved too much clerical work.

The Manse
10th October 1928. contd.
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This the Government did in 1923, when the new bill became simply a pure question of registration and the Church was left free to deal with marriage in its own Courts. The Ordinance left it free for our Native Ministers to celebrate marriage, a thing impossible under the 1912 Ordinance. No charge is made but we charge 1/- for each Marriage Certificate which money goes into the funds of the Native Church.

The marriage question in a polygamous country is always a difficulty and is the main source of disciplinary cases. Our rule is that where the man offends and refuses to leave his second wife he is excommunicated and the innocent party is free to remarry.

Cases of incompatibility of temper, or trivial excuses, for leaving the wife are not recognised, and in most cases reconciliation is effected; but sometimes the parties may refuse to come together and in these cases a separation of six or twelve months may be useful. When these difficulties arise there is generally a third party in the case and often this leads to divorce and excommunication of one of them. The Church attitude is clear, there is no ground recognised for divorce excepting infidelity. The Government attitude is vastly different and follows Native Custom which releases the parties for all sorts of reasons. There are District Commissioners who do try to uphold the Church's position; but there are others whose views on this question are very loose and they may grant divorces for very trivial reasons, but whatever they may do it cannot interfere with the discipline of the Church and we refuse to be tied by anything they may do.

Under the 1912 Ordinance divorces could only be given by the High Court and at prohibitive expense in the case of natives living hundreds of miles away from the High Court. Now under the new Ordinance divorces can be given by any District Court and at no cost whatever.

I shall be glad to give you any further information you require and with all good wishes for the success of your work,

Believe me, Yours very truly,

(Signed) (Rev. James Reid.)

Chairman Mission Council.

Ibi, 12th June 1929.

The Secretary,
U. F. Church of Scotland Mission,
Calabar.

Dear Sir,

The second Miango Conference of the Missions in Northern Provinces will meet towards the end of November this year.

One of the subjects of discussion will be the form of Christian marriage, which, as you know, has aroused strong conflict of opinion.

I read with great interest the practice adopted by your Mission as given in the Minutes of the Port Harcourt Conference.

I shall be much obliged if you will give me in greater detail the form of ceremony in Church and especially a copy of the certificate which you give to those who have their native marriage confirmed in Church. I understand there is a certain jealousy on the part of the Government lest such certificate shall be presumed to be a true and legal certificate of marriage.

Ibi, 12th June 1929. contd.
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Do any of your Church Members prefer to be married under the Ordinance?

Do any members of your staff think that your present system is less satisfactory than marriage under the Ordinance?

What is the procedure whereby a person receives the consent of the Church to seek divorce? May an individual missionary give this consent or must the person appear before a Presbytery or other court? Is there a stated length of time that must elapse between the first break-down of the marriage and the receiving of consent to seek divorce?

Is the guilty party out of membership during the lifetime of his true partner?

Pardon me asking all these rather intimate questions on your procedure but the experience you have had in your system will be of immense help to us in discussing at Miango and also in my own Mission where the question is a burning one.

Mr. MacGregor was appointed by the Port Harcourt Conference to be Convener of a Commission to enquire into the practice of Mission with regard to marriage (Resol. 7.) I understand that Mr. MacGregor is at present on leave. Do you know if the Commission has collated any material? If it has and Mr. MacGregor cares to submit it to the Miango Conference I am sure the Miango Conference would be very grateful indeed.

With my thanks and with every good wish in Christ our Lord,

etc. etc. H. C. F.

Calabar,
3rd July 1929.

Dear Mr. Farrant,

Your letter of June 12th came duly to hand and I hope the following replies to your questions will be helpful at your coming Conference.

1. The marriage under Native Law does not necessarily take place in Church, sometimes they do come there to receive the blessing. Usually after the dowry has been fully paid a day is fixed and we gather at the house of the

bride. A hymn may be sung and after the reading of Christ's teaching, prayer is offered seeking God's blessing on the union and His grace to enable the contracting parties to keep their vows.

2. Yes, some of our members prefer to be married under the Ordinance.
3. Most of our missionaries have found marriage under Native Law quite satisfactory.
4. The Church cannot give divorce, only the Head of the House. As a Church we only countenance divorce for adultery and the matter is in the hands of the innocent party. In many cases the sin is forgiven, but we do not exercise discipline on the innocent person if divorce is insisted upon, and it does not interfere with the membership or new marriage of the innocent person. There is no fixed time.
5. The guilty person may in time be restored to membership, but is not allowed to marry again while the real partner is alive.
6. Please find a copy of the Certificate we use.

With greetings etc., (Signed) V. J. Gardiner, Sec. Mission Council

Calabar matter contd.
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The Certificate sent is in Efik but Mr. Gardiner very kindly had a translation made which is as follows:

This is to satisfy that and according to the Native Law and Custom promise before me this date 192 that they will not seek for divorcement unless each committed adultery. They also promise that they will not contract any marriage so far the former marriage is in existence.

Signed. . . . Head of the House or Mother and Father.
(or perhaps Head Mother and Father of the House).
H. C. F.

Witnesses.

Date.

EXPLANATION

1. This is not a new custom, but according to the Native Law and Custom of when a man has paid dowry to a woman and the woman accepted, the marriage is legal according to the Native Law and Custom of and both of them appear before the Head Father and Mother of the House to prove that the marriage has been contracted legally.
2. If either of them needs divorcement it is necessary for them to go before the Head Father or Mother of the House where they contracted marriage and before witnesses.
3. If they divorce themselves when there is no adultery committed they break their oath and the rule of the Church, therefore, will deal with them according to the rule of the Church.

COUNTERFOIL

This is to show that and have married properly according to the

Native Law and Custom of

And that they promised before me this day 192 that they will not seek for divorcement if there is no adultery committed.

They also promised that they will not contract any marriage while there is the former marriage in existence.

SIGNED.

DATED.

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Ibi, 12th June 1929.

The Reverend Father,
Secretary to
The Prefecture Apostolic of the Lower Niger.

As you no doubt know there is a difference of practice among the Protestant Missions of Nigeria with regard to form of Christian marriage.

Some Missions insist that Christians shall marry under the Marriage Ordinance of 1916, others recognise the validity of marriage by Native Custom and only ask that vows of mutual and life-long fidelity be taken by the couple in Church before receiving the blessing of the Church on the union.

I shall be very grateful, indeed, if you will tell me what is your practice - whether you marry Christians under the Ordinance or not. I am not thinking so much of people who are well educated, fairly rich and have adopted a European style of living but of Christians living in an agricultural community and a primitive African social life.

If you base Christian marriage on native custom would you care to tell me what form of ceremony you have in Church to make the marriage acceptable to the Church, and what form of certificate you give to the married couple under such circumstances? I understand there is a certain jealousy on the part of the Government lest such certificate shall be taken to be a true and legal certificate of marriage.

Is there any means of restoration to Church fellowship for a person who leaves his partner in marriage upon which the blessing of the Church was given?

I apologise for asking these intimate questions on your practice but your help will be very much appreciated by me if you will give me the privilege of an answer.

With thanks, I remain

Your: faithfully,

H. C. F.

R. C. Mission,
Onitgha, Waterside.

The Rev. H. C. Farrant,
Sudan United Mission, Ibi.

Dear Rev. Sir,

His Lordship, Bishop Shanahan, has taken cognisance of your letter of June 12th, containing your queries regarding marriages in our Missions and has instructed me to reply.

As a more statement of the practice of the R. C. Church with regard to marriage might be somewhat confusing, I thought it better to set out in the first place some of the main principles upon which that practice is based.

Christian marriage according to our Theology is at once a contract and a sacrament, which appertains entirely to religion, but which has certain effects in social life that are not of a religious nature. In consequence of this we do not admit that the civil authority has any power to regulate the form of marriage or the conditions of its validity, much less to perform marriages, but we concede that it has the right to legislate for these civil effects, (property rights for example).

R. C. Mission,
Onitgha, Waterside matter contd.
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It follows that we do not consider our Christians married unless their marriage is celebrated in accordance with the canonical form determined by the R. C. Church, i.e. before a priest duly authorized to assist and two witnesses and when this is done, whether the Government's requirements are fulfilled or not, the marriage is valid and complete.

In practice, however, we insist that the Christians comply with all the regulations of the marriage ordinance and in places where our organization is best, the Father on an understanding with the local authority, when the religious ceremony is completed, registers all the marriages in triplicate on the form of Certificate of Marriage, issued under the Marriage Ordinance, section 24. This we regard as being a civil registration or record of marriages already performed, to which the civil authority has a strict right. This, I hope, will be a sufficient reply to your query as to whether with us Christians marry under the Marriage Ordinance of 1916. All marriages of persons already baptized are performed by us in this way.

With regard to pagans, that is persons not baptized, the R. C. Church teaches that their marriages when performed according to Native Custom, are valid matrimonial contracts, but not sacramental. With these marriages we have nothing to do since the Church claims no jurisdiction over those who are not baptized. It is, therefore, the right of the competent civil authority to legislate for this contract. We have to deal with this marriage, only when persons so married are converted and present themselves for baptism, and then several cases arise for consideration.

The first case is that of a man properly married to one wife only, according to pagan custom, both of whom wish to be baptized. Such a couple would be instructed and baptized and by virtue of the sacrament of Baptism their marriage contract becomes itself a sacrament thereby rendering any further marriage ceremony unnecessary. The Father would, however, give them a nuptial blessing and in the case of two young people, at least, would have their marriage registered as before explained.

This case is, as you know, not frequently met with, because of the widespread polygamism which prevails here. In polygamous marriages the R. C. Church regards

the union with the first wife only, as valid. The other women are unmarried and living in concubinage. Therefore if a pagan who has several wives wishes to be converted, his wives remaining in paganism, we would admit him to baptism only on condition that he puts away all women except the first and continues to live with this latter. This done the man could be baptised but no other marriage ceremony would be gone through. I see no difficulty against having such a marriage registered in accordance with the civil law, if the Government requires it. I do not think our Fathers meet such a case as this, since as you know, if a man is converted his wife will also be converted and their case does not differ from that previously considered.

But it often happens that a woman, married in paganism, is instructed and asks to be baptized, whose husband wishes to remain a pagan. Here again, if the woman is the first wife of her husband, we consider her bound by virtue of the matrimonial alliance contracted in paganism to continue to live with her husband. If she is any other but the first wife, an absolute condition of her baptism is that she separates from the man to whom she belongs. From your knowledge of conditions here you can understand how difficult this is. The only means we have of dealing with the case is to leave such a woman unbaptized until some Christian is found who wishes to marry her. He then repays the dowry to the man to whom she belongs and they are married in Christian fashion after her baptism.

R. C. Mission matter contd.
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A further difficulty arises for consideration in this connection, where one party to a pagan marriage is converted and baptized and the other refuses to be converted and furthermore refuses to allow the Christian companion to live according to the Christian religion or the children to be reared Christians or (in case of a pagan husband) refuses to put away his concubines. The Christian party in this case can claim the Pauline privilege, separate from the pagan and be married again in the Church. We frequently meet such cases. I think that from these explanations you will be able to see in what sense we base Christian marriage on Native Custom. I give, of course, only the very general principles and line of procedure, as our Theology and Canon Law, De Matrimonio, are long and complicated treatises. If you wish to study the matter more carefully I can recommend to you some books in Latin and one or two in English in which the whole law is stated and explained.

You wish to know finally whether there is any means of restoration to Church fellowship for a person who leaves his partner in marriage upon which the blessing of the Church was given. As long as any person remains unfaithful to a valid marriage (i.e. contracted in any of the ways I have mentioned) we cannot reconcile him. If he returns to fidelity the only reconciliation necessary is effected in the sacrament of Penance. Not until one person dies could the other, for any reason whatever, contract a second valid marriage. Any union entered into before the death of one party is adulterous.

You will kindly excuse my delay in replying to your letter as I was absent from Onitgha on leave when it came. If there is any point which I have not succeeded in making clear or if you wish for any further details, I will be only too pleased to hear from you again.

His Lordship presents his compliments and wishes me to assure you that he will be always pleased to help you with any information you may wish for.

I remain,

Sincerely yours,

(Signed) D. Kennedy, Secretary

Ibi, 11th June 1929.

The Secretary,
"World Dominion Press",
London.

Dear Sir,

The second Miango Conference of the Missions in Northern Provinces, Nigeria, will meet towards the end of November this year.

Amongst other things the Conference will discuss the form of Christian marriage to be adopted by the Missions, a subject which for years past has aroused strong difference of opinion.

In view of your contact with all Mission Fields and your advocacy of the establishment of an indigenous Church I shall be very grateful, and the Conference, I am sure, will be helped if you will give an opinion on this subject. If you will support your opinion by examples from other Mission Fields it will be specially valuable and I shall undertake to inform the Missions belonging to the Conference of your opinion before the Conference meets.

"World Dominion Press"
matter contd.
page 25.

I state on a separate sheet as concisely as I can the circumstances having any bearing on the matter.

I have also asked the Secretary of the International Missionary Council, Edinburgh House, for an opinion.

Apart from this particular subject, if you have anything else which you wish to bring before the Conference I shall be glad to do so.

With my thanks and every good wish in Christ our Lord,

etc. etc., H. C. F.

World Dominion Movement,
1 Tudor Street,
London.
8th July 1929.

Dear Mr. Farrant,

Your letter of June 11th has been handed to me for answer.

In your statement regarding Christian marriage, I notice what so often occurred to me in British West Africa, the tendency of Government to imitate Indian procedure. The experience of India in connection with the Christian Marriage Act is not quite a parallel to Africa as the conditions there are so fundamentally different. Christians separate themselves very definitely from their old castes and must have procedure formulated for themselves, but even there provisions suitable for European Society have been found not to be the best for native society. The feelings of the people and their idea of the fitness of things must be clearly kept in view, and we are now occupied in India with drawing up very substantial amendments of the Indian Christian Marriage Act. In Africa the necessity of separation from tribal life and thought has never been anything like that in India, hence the transference of our unsatisfactory marriage ordinance to Africa has very little prima facie in its favour.

After hearing many discussions on this question in the countries of the West

Coast of Africa and the Congo, I am clearly of the opinion that foreign Governments should not intervene with marriage ordinances modelled on English, French or other lines, but should rather see that such native customs as are followed are unobjectionable in their practice and non-oppressive in their incidence. I gather that to a large extent the Ordinance in Nigeria has been so stripped of its penalties that it really safeguards nothing vital to Christian marriage.

In our advocacy of indigenous principles we always keep in view the necessity of holding to first principles, and in this case it means emphasis on the spiritual and moral aspects of marriage and the allowing of such a conception to work its way into native practice. It is wise to follow indigenous practice as far as possible, and this not only because native customs will have most weight on the individual, but also because it gives an opportunity for Christians to insist on the removal of objectionable features in these practices, which would itself be an education to the community in general. For example, the practice of dowry is bound up with civil validity of marriage in the native mind. Any hasty effort to abolish dowry simply brings disaster. We can only trust to the gradual education of public opinion, and keep it and all allied questions outside of Church regulations. In any case, the final safeguard of Christian marriage must lie in Christian public opinion, and in the spiritual power of the Christian ceremony which lifts the civil contract to the highest level.

World Dominion matter contd.
page 26.

Therefore, in my opinion, not only is the Ordinance not necessary but it is distinctly unhelpful, and being unhelpful, it may very easily become harmful. The true object of Government should be the purification of communal practice and the raising of it to higher levels. This cannot be done by enactments of the supreme legislature, but only by accepting the prevailing customs and obviating any practice repugnant to humanity. It is surely a truism that any true progress can only come along that line. The Christian religious ceremony should, of course, be obligatory on all Church Members, and in all cases where parties are under no tribal customs it should be sufficient for legal purposes (with or without the Ordinance), and the records of such marriages should be sent to the Government district officials for registration. This should form a sufficient record in every case and would be an extra safeguard in the case of marriages performed under tribal customs. In the conditions which prevail, especially in the coastal regions of Africa, the Ordinance will require to remain. The detribalised African and others will have to be provided for, but even there every facility should be given for native opinion to express itself as to customs and regulations acceptable to the community, and this should be resorted to in every case where it has sufficient reality to satisfy Government. The principles should be that foreign practice should not be resorted to if there is any possibility of following the native practice at all.

This, in essence, is the gist of our attitude to all questions that pass into the region of civil and communal practice. Let us found our conception of marriage on the word of God and inculcate that high conception in the marriage of Christians, and this will permeate the customs of the tribe or community in a way which will purify and raise them and make them a real part of the life of the people themselves.

Trusting that these observations may be of some help in your discussion.

Yours faithfully,

(Signed) Alexander McLeish

Carl Meinhof writing in the "International Review of Missions" for July 1929, page 435 says:

"To close, it must be recognised that European and African conceptions of right and wrong differ, also that European law is not always adapted to African life. On the other hand, new ordinances, especially as regards marriage, are badly needed, but the mission must not handle the matter from without, but must lay the emphasis on Christian principle so that a new form of African marriage law may grow up from within under the guidance of the Holy Spirit".

Johann Flierl writing in the "International Review of Missions" for July 1928, page 347 says:

"All marriage matters especially should be regarded as native affairs in the Christian community, missionaries and Government officials should not interfere with them if a bitter feeling among the people is not to be created".

Log Book, page 29.

To the Members of the Council of Missions.

I send you herewith some other correspondence relating to marriage which may be of value in the discussion at Miango.

H. G. Farrant 25th October 1929.

Ibi, 11th June 1929.

The Foreign Secretary,
International Missionary Council,
London.

Dear Sir,

The second Miango Conference of the Missions in Northern Provinces, Nigeria, meets towards the end of November this year.

I should like to know if there is anything of which you wish to inform the Conference, particularly anything which has arisen as a result of the conference between the Governor and Lieutenant-Governor and missionaries which you so ably arranged in June 1927.

One subject which will be discussed by the Conference is that of the form of Christian marriage, a question which has aroused strong difference of opinion. In view of your contact with all Missions I should like very much if you will give an opinion on the subject. If you will support your opinion with examples from other Mission Fields it will be invaluable to the Conference.

I state on a separate sheet as concisely as I can the circumstances that seem

to me to have a bearing on the subject.

I have also asked the Secretary of the World Dominion Press for an opinion.

With my thanks and with every good wish in Christ our Lord,

I remain,

(Signed) H. G. Farrant
Secretary to the Council of Missions for N. P., Nigeria.

Edinburgh House,
23rd September 1929.

Secretary to the Council of Missions
for N. P., Nigeria.

Dear Mr. Farrant,

Thank you very much for your letter. It has reached me on my return to work after an absence of three months in America for work and after that on holiday. There is an accumulation of urgent matters to deal with and I am not able to reply by this mail as fully as I should like.

The International Missionary Council at its meeting at Williamstown in July resolved to give all the help that it could to a united Christian programme for Africa. I shall be sending out shortly to the missionary societies which have worked in Africa a memorandum on the subject. In view of the approaching Conference at Miango I enclose an unrevised draft of the memorandum and shall let you have a completed copy as soon as possible. No public use should be made of the unrevised draft, though I do not think that any changes that are made will be substantial.

Edinburgh House matter contd.
page 30

The memorandum will let you know the plans which we have in mind. We shall be glad to hear from you and your colleagues at Miango whether there are any ways in which we can help.

I am very glad that Hooper and Dawson will be in Nigeria. They will be able to act as a link between the group in London and the missionaries in Nigeria..... I have had a long talk with Hooper and he will be able to explain the developments at the home base.

I shall do my best to send you any information that I can on the subject of marriage. The pressure is so great at the moment, however, that this must wait until a later mail.

With best of good wishes for your meetings at Miango which we shall not forget to remember in prayer, I am

Yours very sincerely,

(Signed) J. H. Oldham

Edinburgh House,
1st October 1929.

Dear Mr. Farrant,

In your letter of June you asked us to send you information on the subject of Christian marriage. This is a subject which is discussed continually by all the missionary conferences in Africa and the International Review of Missions some time ago asked Mr. Rheinallt Jones of Johannesburg to write an article on the subject. He has not yet sent any material, however, though Miss Underhill has been hoping to have it for some weeks. I must not wait any longer now as I am not sure when this mail will reach you.

I am sending you minutes of the Southern Rhodesia Missionary Conference which may be of some use (1926 and 1928) though the position there is rather different from what you describe. Northern Rhodesia has also discussed the matter. They do not send us duplicate copies of their minutes so I shall have to have the relevant sections typed and hope they will arrive in time by next mail.

In Northern Rhodesia apparently the only form of marriage which the Government recognises for natives is marriage by native custom. The habit of the missions has been for Christian natives to add a ceremony in church. This second ceremony has a religious but not a legal significance and the missionary conference is of the opinion that the time has come when the Government should take some steps for the recording of Christian marriages among the native people and the preparation of a native Christian marriage Ordinance. As a result of enquiries of the Secretary for Native Affairs it was made clear that the following is the minimum to complete a valid marriage contract under Native Customary Law:

1. Consent of the bride's parents or guardians.
2. Consent of the bride.
3. Some payment from the family of the bridegroom to the family of the bride, (generally).
4. In many cases work must be done by the bridegroom for his prospective mother-in-law.

A commission appointed by the conference, reporting in 1924, suggested that native Christian marriage should be by license from the Native Commissioner who should satisfy himself on the points above, and that the officiating minister should sign the license and notify the Native Commissioner. Christians would relinquish the right to divorce for causes other than those allowed by Christian law. I have not been able to find out whether the recommendations of this commission have been carried into effect. The meeting of 1927 deals only shortly with divorce. At present the ease with which divorce can be obtained is a temptation to some, and the conference proposed that the Government should raise the moral standing of native marriage by refusing to grant divorce for trivial reasons. Where Christian vows of marriage have been taken the Church can agree to divorce only on the grounds mentioned in Matt. V.32. Fuller quotation will follow by next mail.

I understand that Mr. Hooper has sent you material from East Africa and I hope that out of all this you will find something that is helpful to you. I wish that we had been able to do more for you but your letter came when we were all in America for the Committee meeting, and since we came back we have been overwhelmed with urgent matters in Portuguese and East Africa.

I am sending you a copy of the Minutes of the Committee in case they may not reach you from America.

Yours sincerely,

(Signed) B. D. Gibson

NOTE: Proceedings of the Southern Rhodesia Missionary Conference for 1926 and 1928 and the Memorandum on a United Christian Programme for Africa, mentioned in the preceding two letters will be laid on the table for inspection at the Conference, Miango.

H. G. F.

Ibi, 3rd October 1928.

The Secretary,
Northern Provinces,
Kaduna.

Sir,

On the 17th and 27th August, at Ibi, I had the privilege of an interview with His Honour, the Lieutenant-Governor of Northern Provinces.

His Honour, at the beginning of the interview, mentioned that what he said must not be taken as the official reply of the Government and asked me to put in writing any questions to which I wished an official reply.

May I, therefore, consequent to our conversation during the interview and to the memorandum on the Form of Christian Marriage which I submitted to His Honour before the interview, ask the following questions:

1. Is it the intention of the Government of Nigeria to give powers to Residents to hear pleas of divorce in the case of marriage contracted under the Marriage Ordinance of 1916?
2. Is the Government considering the making of any change at all in the Marriage Ordinance of 1916, and if so, of what nature is the contemplated change?
3. If Missions proceed to base Christian marriage on native custom of marriage and find in a tribe that the custom includes features that are obnoxious will the Missions have the sympathy and help of Government in any wise attempt to modify the obnoxious features?

Yours faithfully,

(Signed) H. G. Farrant, Field Secy.

Kaduna, 22nd November 1928.

Field Secretary, S.U.M.

I am directed by the Lieutenant-Governor to refer to your letter, dated at Ibi the 3rd October, 1928, in which you put forward three questions on the subject of

of Christian marriage and to transmit the subjoined reply.

2. With regard to the first and second questions in your letter, the matter has been fully considered by Government and it has been decided that no alteration in the existing law should be made.
3. As to third question in your letter, I am to say that, provided any change takes place with the full and unanimous consent of the tribal authorities and with the knowledge and consent of the Resident, Government would always be prepared to support modifications of local customs which would tend to make them more in accordance with the laws of humanity. Your attention has recently been drawn by His Honour to the recent change in the marriage customs of the Munshi tribe, as recorded in your account of the interviews which took place at Ibi on 17th and 27th of August last.

I have the honour etc.

(Signed)

Hamlyn

for Secretary, N. P. Acting.

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