

## D. Entry into a New Marriage

It is allowed to enter marriage with single women and widows only, - generally only to those free from marital ties. Under current legislation, it is considered an unlawful and invalid marriage that is concluded during the existence of another, that is not continued through the death of one of spouses or not dissolved legally<sup>1</sup> (Svod Zakonov [Code of Laws], vol. X, part 1, articles 20, 37; Ustav Dukhovnikh Konsistorii [Ustav of the Spiritual Consistory], 222-223).

Therefore only in the following cases can those who were married enter into a **new** (second or the third - see below) **marriage**:

a) The surviving spouse may enter a new marriage at the end of the marriage by death of one of the spouses<sup>2</sup> (see 1 Cor. 7:39; Rom. 7:1-3).

b) When one of the spouses, having left the place of (his, her) residence, will be found for five or more years in a completely unknown absence, then the remaining spouse is permitted to ask the diocesan authority for divorce and permission to enter a new marriage<sup>3</sup> (Visochaishii povelienie [Imperial Orders], Jan. 14, 1895, about the new right for divorce for an unknown absence, article 1).

c) Military wives, whose husbands have run away from service, were missing in action or are taken prisoner, are permitted to ask for divorce after five years from the time their husbands ran from service, were missing in action or were taken prisoner<sup>4</sup>, if they thus remain uninformed<sup>5</sup> (vol. X, part 1, article 56; Visochaishii utverzhenie [Imperial ratification] of the opinion of Ruling Council, Nov. 22, 1883; Visochaishee povelienie [Imperial Orders], Jan. 14, 1895, note for article 5).

d) Innocent spouses: 1) persons, sentenced to exile in hard labor in a settlement with deprivation of all rights of position and 2) persons sentenced for life to Siberia with deprivation of all special rights and advantages, if they do not follow the banished to their place of exile, may ask the Spiritual Consistory, in place of fulfillment of marriage, for divorce and permission to enter into a new marriage<sup>6</sup>; in the first case, upon the introduction into evidence the judicial sentence for the exile of their guilty spouses, but in the second - after two years from the date of the entry into the legal power of the indicated sentence<sup>7</sup>. Precisely as well even the above-stated guilty spouses, if their innocent spouses have not followed them to the place of exile, can also ask the Spiritual Consistory for

divorce in place of completing their marriage and for permission to enter into a new marriage and the right to these requests is given:

a) Hard labor exile of the first category through 3 years, 2nd category through 2 years and the 3rd category through one year after entering into the group was verified,

b) For exiled-settlers and

c) Banished for life to Siberia - after two years from the date of entry into the legal power of the judicial sentence on them (Svod Zakonov [Code of Laws], vol. X; part 1, by the sequel 1893, article 45, items 2; vol. X, part 1, publ. 1887, article 50; vol. XIV, Ust. [Typ.] for exile, by the sequel 1893, article 409, supplement, article 412, item 1, article 501, item 1, supplement, item 3, supplement; vol. XV, Ulozhenie o nakazaniakh [Criminal Code of Laws], by the sequel 1893, article 27, item 1, note, article 46, note 2; Ustav Dukhovnikh Konsistorii [Ustav of the Spiritual Consistory], 225).

d) In the case of divorce by the court (see below) owing to the claim of divorce by one of spouses, for the claimant who has confirmed the claim, the right to enter new marriage is given, but the person, guilty in the divorce, is condemned to the usual celibacy<sup>8</sup> (Ustav Dukhovnikh Konsistorii [Ustav of the Spiritual Consistory] 233, article 253; Visochaishee povelienie [Imperial Orders], January 14, 1895, article 11).

The Orenburg Diocesan Authority informed the local clergy that in the case of a sentence of deprivation of all rights of position, but, hence, also family rights, persons, not voluntarily following the condemned to the places of exile, can enter a new marriages under the existing law not before the definitive cancellation of their former marriages with the condemned spouses by the diocesan authority for which they are obligated to petition the diocesan authority for the granting of the petition by the established order (see Tserkovnyi Viestnik [Church Messenger] 1875, 10). Precisely as well concerning persons whose spouses are found in unknown absence, the same Consistory explained to the local clergy that up to a formal divorce by the diocesan authorities church clergy do not have the right to crown the persons, whose spouses are found in an unknown absence (Orenburgskiiia Eparkhial'niia Vedomosti [Orenburg Diocesan News] 1889, 3). Generally, for priests, it should mean that those divorced, in the case of entry into a new marriage, are obligated to present the certificate that such marriage is allowed by them. If the presented document does not say anything about the permission for the entry into a new marriage after divorce, then it is impossible to do the crowning (see Tserkovniia Vedomosti [Church News] 1896, 1; refer below, about the documents demanded at marriage).

**Persons, divorced because** of their illegal and void marriage, have the right to enter new marriages with other persons, except for persons sentenced to celibacy forever (See p. 1085). It is not forbidden for persons, separated from co-habitation because their marriage was concluded in the forbidden degrees of blood or spiritual relationship or estate, to enter new marriages if there are no other obstacles to this. Persons, divorced from co-habitation because their marriage is concluded while the other one exists, may continue co-habitation with their spouses of their former marriage if the remaining spouses agree to this, but they cannot enter into any kind of new marriage after the death of these persons. If the remaining person does not wish to stay in the marriage with the person who left and has entered another illegal marriage, then he has the right to ask the diocesan authority for permission to enter into a new marriage and in that case the one guilty of entry into a new marriage while the first still exists is sentenced to celibacy forever. The person, disappearing in uncertainty from the spouse for more than five years, is also exposed to this. It is not forbidden for ranks of military departments, who were held in captivity for more than five years, or missing in action in the war, to enter a new marriage after returning, if their former marriage was already terminated.

When both parties are guilty of ending the marriage, during the existence of the previous lawful marital union, then after the divorce of the last illegal marriage, they remain in their former marriage union, but in case of the termination of this through the death of one of them, the surviving person has no right to ask for the restoration of his illegal marriage nor for permissions to enter new marriage (Svod Zakonov [Code of Laws], vol. X, part 1, articles 39-42; Ustav Dukhovnikh Konsistorii [Ustav of the Spiritual Consistory], 210, 212-216).

After the termination of former marriage in the above-stated cases, interested persons may remarry but only when this marriage will be the second<sup>9</sup> or the third. **The fourth marriage**<sup>10</sup> under the laws in force is unconditionally forbidden (Svod Zakonov [Code of Laws], vol. X, part I, article 21).

Upon entering the **third marriage**, a **church penance**<sup>11</sup> is imposed according to canon 4 of St. Basil the Great (See Laod. 1 and Neocaesarea 7).

According to the indication of one, the Holy Synod based on the decree [ukase] addressed to the Hierarch of Saratov, Apr. 5, 1871, № 638, the crowning of

the third marriage may be done without asking for permission of the Hierarch, and the priest under his authority imposes a church penance on the third marriage according to canon 4 of St. Basil the Great (see Riazanskiia Eparkhial'niia Vedomosti [Ryazan Diocesan News] 1895, 1-2; S. Grigorovsky, "Sbornik Tserkovnyi Grazhdanskii Zak. o Brake [Collection of Church and Civil Laws on Marriage]", p. 5).

But others confirm that clergy should crown third marriages not differently, with only with the permission of the local Hierarch (see Tserkovnyi Viestnik [Church Messenger] 1890, 27; Prakticheskoe Rukovodstvo dlia Sviashchenno Sluzhitelei [Practical Manual for Church Servers], p. 238; P. P. Zabelin, "Prava i Obiazan. Presvit. [Rights and Obligations of the Presbyter]", pp. 255-256).

Diocesan authorities also decide this question differently.

In some dioceses, the local authorities gave corresponding instructions concerning penances to be imposed on third marriages and have been permitted, if there are no special doubtful circumstances, to crown third marriages without a separate bishop's permission<sup>12</sup>.

But in other dioceses local authorities issued special orders that priests would ask for the permission of the local Hierarch to crown a third marriage.

In those dioceses where there are orders of the local diocesan authorities concerning the crowning of third marriages without separate hierarchical permission, of course, it is not necessary to ask for that permission for crowning the third marriage.

In those dioceses, where specific orders are not available, in view of the necessity of imposing penance on the third marriage, one must ask the local hierarch for permission for crowning marriages of specified persons<sup>13</sup>.

Relative to this, whether it is permissible for the person, **who converted to the Orthodox faith** from heterodoxy, **the entry into a new matrimony** in the case before the acceptance of Orthodoxy who has been obligated by three marriages under the laws of his belief, - to this question neither in the church nor in civil legislation, as currently and in the past time, is the answer given. But in

practice the highest spiritual court of our Church has made the following available for the resolution of these questions.

In 1848, under examination by the Holy Synod was the matter about permissibility of the marriage of a certain Jew, who stood in two consecutive marriages under Judaic law, then after the death of the second wife, accepted Orthodoxy and entered again into marriage with a person of the Christian confession, after the death of this third wife he wished to enter a new marriage (which for him would be, considering all his marriages, the fourth, or the second if only counting the marriages concluded by him after his acceptance of Orthodoxy). The Holy Synod gave to the specified person permission to the entry into the second marriage and besides motivated his decision on this question with the below-mentioned reasons:

1) Although Apostolic Canon 17 forbids the person to remain in the clergy, who after baptism was already in two consecutive marriages, but this canon is silent about the marriages of the Christian, which he could have had before his acceptance of holy baptism, for the holiness of marriage exists and is only reached in Christianity.

2) Article 83 of the Codex of Civil Law, Vol. X, 1842 (after vol. X, publ. in 1887, article 81), permitting divorce between Jewish spouses if the spouse remaining in disbelief does not wish to continue co-habitation with the one converted to Orthodoxy, does not distinguish which marriage this last person had.

3) Therefore from consecutive marriages in which the given person who converted to Orthodoxy had, only those need to be considered lawful he entered after he accepted Christianity (Protocols of the Holy Synod, from Feb. 18, 1848, after № 83; for more details see S. Grigorovsky, "Sbornik tserk. i grazhd. Zak. o brake [The Collection Church and Civil Laws about Marriage]", pp. 11-12; Sobranie Mnenie (Collection of Opinions and excerpts), supplementary Vol., pp. 218-220).

Obviously that practical application in corresponding cases of pastoral activity of the above-declared decisions of the selected question is outside the authority of the priest. In as much as the answer to this question, it has already been noticed that this is not available at all in our working legislation. Therefore for those wishing to marry, similar to the aforesaid, the relevant spiritual authority should present to the priest the permission for the entry into this marriage.

However, it is necessary to notice that such permission can be demanded only in the event that it would appear that in the first record in the corresponding church-parish documents on the marriage status of those transferring into Orthodoxy that requirement, according to which designation in this record by this or another under the count of marriages of the indicated person must be done by the priest to agree with instructions of the local diocesan authority concerning this<sup>14</sup>.

If this requirement of the record of the indicated marriage has been observed, then concerning future marriages of persons converting to Orthodoxy the priests should be guided by the above-stated. (See p. 1111, article, vol. X, Svod Zakonov [Code of Laws]<sup>15</sup>

**The office of crowning the second and third marriage** (when both of those being married enter a second marriage) differs from first merely in that it is achieved by a special office, in prayers which indulgence is asked of God for the spiritual and corporal infirmities of those being married that required the repetition of marriage (see below).

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<sup>1</sup>In matters of multiple marriages, the accused are brought to criminal court.

**Those guilty of entry into a new marriage**, while still existing in a previous one, are subject to deprivation of all special, personal and by their appropriated situation, rights and advantages and exile to life in Siberia, or a stay in correctional guardhouse branches, and, moreover, turned over to church repentance under the oversight and order of his spiritual authority (Ulozhenie o nakazaniiakh [Criminal Code of Laws], article 1554).

The entry of a married **Orthodox into a second marriage with a Jew**, by a ceremony of the Hebrew religion, comes under the action of article 1554 of the Ulozhenie o nakazaniiakh [Criminal Code of Laws] (decision of the Ugolovniia Kassatsia Deputatsiia [Criminal Court of Appeal Deputation], 1885, № 27).

The responsibility by article 1554 of the Ulozhenie o nakazaniiakh [Criminal Code of Laws] is also fully applied to the foreign citizen who has entered a new marriage in Russia according to the rites of the Church while there still is a previous civil marriage, established by the laws of his country. But for the **Russian subject, entering into a foreign civil marriage**, the marriage concluded in that country, it will not be the second in as much as it was concluded by the Russian citizen abroad and the civil marriage does not represent a legal marital union (decision of the Ugolovniia Kassatsia Deputatsiia [Criminal Court of Appeal Deputation], 1889, № 2).

By the Ustav Dukhovnikh Konsistorii [Ustav of the Spiritual Consistory] (article 189), persons **who have entered into marriage**, while tied to a matrimonial union, are subject to the same punishment, as for the wedding of the persons connected by relationship to the first four degrees (see pp. 1101-1102 above).

<sup>2</sup> Under Greco-Roman laws, the widow should not marry before the **termination of the mourning year**, for fear of undergoing dishonor and to some estate damage. This rule operated even in our Russia until Peter I and even has been extended to husbands who have lost wives. Now the observance of this rule is considered a matter of decency. Nowhere is there a canon forbidding the crowning of widowed spouses before the expiration of the forty days from the date of death of the husband or the wife. However, the priest may clearly explain to widowers or widows that it is necessary for them to wait to marry, after the extreme measure before the expiration of forty days from the date of death of the husband or the wife, so that 1) thereby they prove their love and will commemorate

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their reposed one, but 2) so that they will with more concentration offer prayerful commemoration for the reposed one, as by the word of the Apostle, "who is unmarried cares of the things of the Lord", but "he who is married cares about the things of the world" (1 Cor., 7: 32, 33). For all of this the priest should not bring up these reasons in the obligatory law, than that the widower, having a whole family of small children, cannot live without a wife even for two weeks (Rukovodstvo dlia Sel'skikh Pastyrei [Manual for Village Pastors] 1885, 42; for more see Tserkovniia Vedomosti [Church News] 1894, 38).

<sup>3</sup> The **factual situation of an unknown absence** gives to the abandoned spouse merely the lawful grounds for the request for divorce, but does not give him the right to consider himself free from the duties connected with the marriage, in which he continues to stand, is why his illegitimate ties should be considered adulterous (decisions of the Ugolovniia Kassatsia Deputatsiia [Criminal Court of Appeal Deputation], 1892, № 90).

<sup>4</sup> In the Code of Laws the five year term is generally extended to the **wives of the lower ranks**, but according to article 231 of the Ust. Dukh. Kons. [Ustav of the Spiritual Consistory] this term is appointed for wives of the lower ranks who have run away from service, but for wives of the lower ranks who are missing in action in the war or taken prisoner, the current ten year term is required. Thus, the Ustav [Typikon] of the Spiritual Consistories and the Code of laws at variance between itself concerning indicated point. In view of this and for some other reasons **new canons** on divorce cases have been developed, namely articles 230-236 of the Ust. Dukh. Kons. [Ustav of the Spiritual Consistory], due to the unknown absence of one of spouses, and such canon of January 14, 1895 of the Visochaishii utverzhenie [Imperial ratification] (see Tserkovniia Vedomosti [Church News] 1895, 7) are awarded. These canons apply only to marriages of Orthodox persons in mixed marriages, when one person is Orthodox and the other is of Christian faith but not of the Orthodox confessions (Tserkovniia Vedomosti [Church News] 1898, 50).

<sup>5</sup> If **military wives will enter a marriage** voluntarily by one false hearing, without the permission of the spiritual authorities and without the necessary uncertainty about the first husbands according to the rules of investigation, but after those first husbands come back to them, then because such second marriages are not lawful is why any kind of prescription with respect to it is not acceptable (Ukaz Prav. Senata [Decrees of the Ruling Senate], June 13, 1812; see V. N. Mordvinov, "Collection of Laws, distributed and explained about marriage and divorce", p. 81).

<sup>6</sup> For persons, sentenced to exile: a) for life in other places besides Siberia, more or less distant provinces, b) to Siberia in a settlement under the name of settlement workers, and c) to compulsory resettlement in Siberia are perfectly in administrative order, their **former marriage**, even in that case that their spouses were innocent, who have the right not to follow them to the place of exile, and have used this right, - **remains in full power**, and are neither banished, nor can their innocent spouses ask for divorce and for permission to enter a new marriage (Ulozhenie o nakazaniiaakh [Criminal Code of Laws], by the sequel, 1893, article 27, item 1, note., article 46, note 2; Uk. Sv. Syn. [Decrees of the Holy Synod] Oct. 7, 1893, № 7).

**Wives, who follow the convicted**, depend exclusively on their own only in those desires during the exile of their husbands in hard labor, in the settlement and the way of life of settled workers. Wives of those persons transferred by sentences of society under administrative order are obligated to follow their husbands, depending on their wishes, with the exception of the following cases:

- a) When the transferred husband will express his consent that his wife remain in their former residence,
- b) When the wife has an incurable dread illness and
- c) When her husband was manipulatively cruel to her or because of his obviously dissolute behavior.

In the first case the consent of the husband makes sure of his breaking away before the subject police heads in writing.

In the second, petitions for remaining in the place of residence, because of illness, are definitively considered by the Provincial Boards.

Finally, in the third, petitions offered for reason of cruel manipulation or disruptive behavior, are transmitted to the courts of the first instance or when they are brought by rural persons to the volost courts

Husbands, who did not participate in a crime, during all the term of their exile and the resettlement of their wives follow them, are only according to their own desire (Svod Zakonov [Code of Laws], vol. XIV, publ. in 1890, Ust. [Typ.] on Exile, articles 254-257).

During the exile or resettlement of parents, children over 14 years old may or may not follow them, by their

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own desire.

The question about children younger than 14 years old in this case is decided according to the mutual agreement of the parents, but, anyway, when one of spouses remains in place the children also remain with (him, her), with the granting to (him, her) guardianship over them. Nursing children always remain with their mothers. Children, found in state institutions and on state maintenance, cannot be demanded by parents to follow them to places of their exile (*ibid.*, articles 258-262).

<sup>7</sup> The **wife sentenced 20 years ago to Siberia**, who remained in the homeland, if there is no official data on the death of her husband and her marriage was not terminated, cannot enter new marriage. It is possible to sue for divorce for an unknown absence (*Tserkovniia Vedomosti* [Church News] 1896, 16).

<sup>8</sup> The decree (*ukase*) of the Holy Synod circulated June 28, 1888 insistently inspired the clergy that they not allow the crowning of marriages with any evasion from the requirements of the law under fear of strict liability. In cases **of the fulfillment of marriages of persons sentenced to celibacy**, the clerics who have married such persons fall under article 189 of the *Ust. Dukh. Kons.* [*Ustav of the Spiritual Consistory*], by which the clerics are punished for the crowning of the persons obligated by the marital union (see note 2 on p. 1108).

<sup>9</sup> The Perm Spiritual Consistory prescribed to the clergy of the diocese that **widows over sixty** years old and entering a second marriage, on the basis of canons 4 and 24 of Basil the Great to offer repentance for 1 or 2 years (see *Rukovodstvo dlia Sel'skikh Pastyrei* [Manual for Village Pastors] 1889, 46; refer to note 3 on p. 1079).

<sup>10</sup> Persons of the Orthodox confession, who entered into **the fourth marriage**, are subject to imprisonment for four months and, moreover, are turned over to the church spiritual authorities for repentance (*Ulozhenie o nakazaniakh* [Criminal Code of Laws], article 1564).

Orthodox Priests, who obviously did the 4th marriage or the marriage of an Orthodox with a non-Christian, are subject to punishment for this on the basis of the canons of the *Ustav Dukhovnikh Konsistorii* [*Ustav of the Spiritual Consistory*] (*ibid.*, article 1574).

<sup>11</sup> The **third marriage** St. Basil the Great considers impure in the church, but adds that third marriages are not subject "to national condemnation and are not terminated, because all of them are better than libertinism" (canon 50).

Metropolitan Photius says: "the first marriage is the law, the second is by need for the forgiveness for human weakness, the third is transgression and the fourth is an impiety because it is a swine's way of life" (see *Prakticheskoe Rukovodstvo dlia Sviashchenno Sluzhitelei* [Practical Manual for Church Servers], p. 237).

According to the thinking of Metropolitan Philaret of Moscow, the Holy Church recognizes one marriage as complete for all Christians, because Christian marriage, according to the Apostle, is a paradigm of the union of Christ with the Church. Christ is the unique Groom of the unique bride, the Orthodox Church. Second marriage is allowed by her according to the indulgence for human infirmity, but the third reluctantly supposes, with penance, as not being free from sin, turning from a greater evil of debauchery outside of marriage by this imperfect matter (*Sobranie Mnenie* (Collection of Opinions and excerpts), vol. IV, p. 521).

By indication of the same Moscow Archpastor, the person, wishing to enter the **third marriage at 50 years of age**, is to be exhorted so that he rethinks whether it is the time to acquire new marital bonds (*Prib. k tvor. sv. ott.* [Supplement to the works of the Holy Fathers], 1871, part 24, p. 421).

<sup>12</sup> Relative to the **penance term** of those entering the third marriage, the Perm diocesan authorities explained that if a man or woman enters a third marriage, then give them penances of 3 to 5 years; the father confessors may reduce the term in accordance to their age, depending on family circumstances of those being married and according to the sincerity of repentance (see *Rukovodstvo dlia Sel'skikh Pastyrei* [Manual for Village Pastors] 1889, 46).

Precisely as well the Samara diocesan authorities declared to the diocese that priests may reduce the penance for a third marriage, due to the burdensome position of their family life, to half, that is instead of 5 years to 2 years and 6 months (*Samarskiiia Eparkhial'nyiia Vedomosti* [Samara Diocesan News] 1871, 18).



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<sup>13</sup> In 1871 the St. Petersburg Spiritual Consistory issued an order (See Tserkovnaia Letopis [Church Chronicle] 1871, 15) to priests of the diocese **about the crowning of those entering a third marriage** without hierarchical permission, agrees with the following position of His Eminence Metropolitan Isidore of St. Petersburg and Novgorod, of the cited Consistory:

"According to the reasoning of church canons and civil legislation, it appears that civil legislation does not obligate those wishing to enter a third marriage to turn to the diocesan hierarch with a petition for this, and for such persons there is no withdrawal from the law, described in article 25, vol. X of the Civil Law by which the person wishing to marry to address the parish priest with a notification message about this. Similarly, the crowning of a third marriage does not consist of one of those cases for priest by which they are obligated by the law (articles 23, 29 and 31) to ask permission of the diocesan hierarch.

Relatively, the excommunication for a third marriage means that having married three women would not be exposed to national condemnation (canon 50 of St. Basil the Great) and the term of excommunication for them is assumed in agreement with custom (canon 4) without prohibition of entry into the church. Besides the obligatory performance of an urgent penance is established for the unacceptable completion of repentance (6th Ecumenical Council, canon 101), by the zealotness of the penitent which is measured again by the mercy for him (ibid.).

For these reasons, without finding need each time to ask for permission for entry into a third marriage, I suggest the Consistories to announce to the clergy of the diocese that those wishing to enter a third marriage do not need to ask the permission of the hierarch if while observing the known pre-marital precautions there are no special doubtful circumstances and that the father confessors imposed a penance on the third marriage confirmed by church canons.

Also in 1871, the order on the subject of crowning those marrying has been applied, but in 1874 it is again repeated, and in the Lithuanian diocese (Litovskiiia Eparkhial'niia Vedomosti [Lithuanian Diocesan News] 1871, 12; 1874, 21; 1892, 26).

But, in view of this, the Omsk hierarchy, that some clerics of the diocese crowned third marriages without the permission of the diocesan authorities, ordered the local Consistory for the prevention of such independent willfulness to inform the clergy of the diocese that although the third marriage was unconditionally not denied by the Orthodox Church, nevertheless she looks upon it as an uncleanness in the church (Basil the Great, canon 50), defining a five year penance for entry into this (Basil the Great, canon 4). Therefore persons, wishing to enter the third marriage, are preliminarily to ask the permission of the diocesan authority for this, submitting a petition paid by the stamp duty (two eighty kopeck stamps) with a detailed statement of the reason for this and a written authentication the local clergy of justice (Omskiiia Eparkhial'niia Vedomosti [Omsk Diocesan News] 1899, 5).

In the Minsk diocese the local Spiritual Consistory also made the order to the diocese that hierarchical permission was needed for the crowning of a third marriage and it was prescribed that with the petitions there were copies of metric record register: 1) for the first marriage of the applicant; 2) for the death of the first spouse of the applicant; 3) for the second marriage of the applicant; 4) for the death of the second spouse and 5) the data that at the present time the applicant stands in widowhood after the second marriage (Minskiiia Eparkhial'niia Vedomosti [Minsk Diocesan News] 1891, 21).

<sup>14</sup> The former **marriage of the newly illumined** either remains in force or is terminated and in the latter case the newly illumined is permitted to enter into a new marriage with an Orthodox person (see below for more details).

In as much as matters of this sort belong to the cognizance of the supreme church authority, then the newly illumined who, standing in a heterodox marriage, after their transition into Orthodoxy wish to enter new marriage, the priest, although this would be a new marriage and with the inclusion of the former, done by the specified person in heterodoxy, was among the three marriages consistently permitted (i. e. 2nd or 3rd), does not have the right to crown the marriage without the permission of the diocesan authority. According to the instructions on this, the authority should also be the designation of this or the other under the account in the corresponding church-parish documents of the indicated marriage of the newly-illumined. If the first record by this or the other under the account of the marriage of every one of those converted from heterodoxy to the Orthodox faith is done in the church documents accordingly to the orders rather than the faith of the relevant authorities, then further marriages of the

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specified persons cannot also present to themselves the difficulty in pastoral practice. Under what account and on what basis the marriage of the above-cited Jews has been recorded in a search, we do not know.

<sup>15</sup> It follows whether the **marriage, recognized as illegal is either inactive or terminated**, for this or other lawful reason **to include in the number of three marriages**, consistently allowed for persons of the Orthodox or persons who were in that marriage, after the decision of the spiritual court has taken place about the recognition of this illegal marriage or its divorce, it should be considered as if it were not a marriage, -- concerning this, according to some, also neither in the church nor in civil legislation of the current and the past time is not the answer (refer to the Ust. Dukh. Kons. [Ustav of the Spiritual Consistory], articles 213 and 253), but has been given only in the practice of the supreme court of our Church and namely the following.

One Cossack woman, being divorced from her husband, by his inability to co-habit in marriage, after this consistently married two more times, and after that, having become a widow after the third marriage, turned to the Holy Synod for permission to enter into a new marriage. The Holy Synod did not recognize the possibility to satisfy her request, "since by the canons of the holy fathers, piously and inviolably contained up to now in the Orthodox Church, the entry into a fourth marriage is forbidden, and those marriages are not only not done in what, but also children born from them cannot be named their constant children" (report of the Holy Synod, July 25, 1808, № 91).

On the same basis, the Holy Synod refused to allow the entry into a new marriage to such a person who consistently stood in three marriages though one of them has ended in divorce due to the unknown absence of the other spouse (report of the Holy Synod, March 4, 1808, № 57). Thus from the resulting separate decisions of the Holy Synod it is clearly seen that the terminated marriage is not excluded from the account of three consistently allowed marriages.

As to illegal and void marriages, then such, as far as it points to the practice of the Holy Synod for past century, were excluded from number of three consistently allowed marriages only for those persons, who have been involved in the marriage interface, being ignorant of its illegality (reports of the Holy Synod, January 13, 1723 and 1735 and September 24, 1792). During the flow of a century, the question on whether it follows that a marriage, nullified as illegal and void is to be included in the number of the three consistently allowed marriages, was in the judgment of the Holy Synod by the command of the Sovereign.

And the Holy Synod for different reasons has come to the following conclusion: "to also henceforth accept marriages ritually done in the church, but later dissolved after lawful examination, , as from of old until now, the number of three marriages that have been accepted and consistently allowed by the Greek and Russian Church".

The explained conclusion of the Holy Synod has been reported by the Synodal Ober-Procurator to His Imperial Majesty and the Ober-Procurator announced that report to the Holy Synod for the dependent but order to this subject (matter of the Holy Synod, 1824, according to the archive № 1078). This matter is why that in due time it has not been announced and remains the property of the Synodal archives (S. Grigorovsky, "Collection of Church and Civil Laws on Marriage and Divorce, pp. 12-15).

Out of the above-cited, it follows that the person who had three marriages in which number there also was a marriage nullified as illegal or voided, there would be the right to renumber by crowning a new marriage by the priest only in the event if that would be among the other documents demanded at marriage, the specified person could also present to the priest the formal permission of the diocesan authorities for the entry into this marriage, without which the priest has no right to crown his marriage.

Precisely also from the above-cited it follows that the designation in the search also of the metrical records for this or the other under the account of such first after the divorce of marriage, who will be among the three consistently permitted (i. e. together with the dissolved marriage of the 2nd or 3rd), falls under the local diocesan authority in as much as for the independent paradigm of action of the priest in this case is not available in the corresponding legislation.

In some dioceses as, for example in Samara, generally concerning the terminated, illegal and void marriages it has been publicized to the clergy the general knowledge that the above-cited marriage be counted

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among the three consecutive marriages (see Samarskiia Eparkhial'nyiia Vedomosti [Samara Diocesan News] 1898, 1).

*S. V. Bulgakov, "Handbook for Church Servers", 2<sup>nd</sup> ed., 1274 pp. (Kharkov, 1900) pp. 1108-1115.  
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