

SIXTH GENERAL ASSEMBLY OF THE  
PRESBYTERIAN CHURCH IN CANADA.

(Continued.)

## DEGREES IN DIVINITY.

Rev. D. J. Macdonnell said the degrees were not granted there simply to those who took the course of study there, or only to members of the Church.

Principal Caven—Neither would the degrees granted in Knox or Montreal Colleges. They had students there who belonged to the Methodist, Baptist, and other denominations, and any student who fulfilled the conditions under which the degree was granted would be entitled to it. Was there any reason to believe that the authorities of Knox or Montreal or the Halifax College were less anxious to keep up the dignity of a degree, or less anxious to sustain theological education in all its sweep or research than their respected brethren of Queen's College? He dare not and could not use that argument if he belonged to the only college that possessed the degree-conferring power. If the existence of four or five colleges in the Church did not degrade the ordinary theological work of the Church what reason was there for the Church to suppose that they would degrade the degree conferring power? To lay this matter on the table for a year would be to exhaust their patience. It has been before the Church for many years, and it could not be said with truth to be sprung upon them now. They did not want the power to multiply D.D.'s. So far as he was concerned he attached very little importance to them. He should not be grieved if the title were dropped by every brother who wore it. He felt pained by the remark of Principal Grant that their ground was that no college should have anything that another had not. He (Principal Caven) had never used that argument. They wanted the power asked for, because the possession of it would help them to develop theological education. Their students were every year pressing them to do something in that direction. The decision of the Presbyteries last year was upon another question, and did not interfere with this one.

Principal Grant said he had not implied that Knox College was not as worthy to be trusted with the power of conferring degrees as Queen's.

Mr. Macdonnell's amendment was then put, and lost.

Principal McKnight, of Halifax, had an amendment which he thought they might adopt unanimously. It was that the Assembly, having considered the overture, authorize the Boards and Senates of the Colleges at Toronto and Montreal to take such steps in the matter as they may deem advisable. This would leave the matter with the Colleges without committing the Assembly.

Rev. Mr. Campbell seconded this motion, which was accepted on all hands, and carried unanimously.

## FRIDAY, JUNE 18TH.

## MORNING SEDERUNT.

The Assembly met at nine o'clock a.m., and, after adopting loyal addresses to the Queen and Governor-General, proceeded to the consideration of the finding arrived at by the Judicial Committee in reference to the divorce case of Mrs. Phillips.

Principal Caven, Convener of the Committee, stated the facts of the case. Maria Jane Bushnell married one Henry C. Lewis, in the village of Arthur, in the year 1870. After they had lived together about two years Lewis went to New York, where the evidence taken before the Presbytery shewed him to have been guilty of adultery. When he came back, the facts having come to the knowledge of his wife, they separated. There was no evidence to shew whether he deserted her or whether she forsook him. She went and lived with her father in the village of Arthur, taking her only child, a son, with her, and sustaining herself by teaching music. After some time she wrote to her husband, informing him that she intended to apply for a divorce. He replied that she might do as she liked in the matter. In 1876, six years after her marriage, she became a communicant in the church at Arthur. In 1877 she went to the United States in order to be domiciled there for the purpose of securing a divorce. After living there the required time she sued for and obtained a divorce on two grounds, first drunkenness, and second desertion, on the part of her husband. The Committee had been told by the representatives of the Presbytery that she had been advised to follow this course, although she might have prosecuted on the stronger ground of adultery. She obtained a divorce in April, 1879, and returned to her father's house at Arthur. In the following month, the month of May, she was married to one Thomas J. Phillips. After that an "informal agitation" about the case began in the congregation, and "the matter was on the minds of the office-bearers and members of the congregation, and was pressed upon the session." The session took the matter up, and referred two points to the Presbytery, viz.: (1) whether the minister who celebrated the second marriage, Mr. D. Stewart, was justified in doing so; and (2) whether Mrs. Phillips had a right to remain in the communion of the Church. The Presbytery's first action was to appoint assessors to the session to investigate the case more fully. An investigation was held, and two witnesses, one of them Mrs. Phillips' mother, testified that Lewis had admitted his guilt to them. The session reported the case to the Presbytery without taking any action. The Presbytery referred it to the Synod of Toronto and Kingston for advice, and the Synod referred it to the General Assembly. When the vote was taken in the Committee eight voted that the finding be supported, while seven voted for the opinion of the minority. The finding of the Committee was as follows:

"Inasmuch as marriage is a civil contract as well as a religious ordinance, due regard to the law of the land and to the interests of public morality requires that the Church should not lend her sanction to divorce or re-marriage which our law, in this matter conformable to Scripture, does not recognize.

"Whilst in the case before us there is evidence that a divorce might have been sued for on the ground recognized by Scripture and the law of Canada as adequate, yet the party whose relation to the Church is in question obtained,

in a foreign country, a divorce which the law of this country does not hold to be valid. The divorce, therefore, and the marriage which followed, should not by any action of the General Assembly be regarded as having fully satisfied the requirements which Christian duty enjoins us to respect.

"In these circumstances the judgment of the General Assembly is that the party should be instructed and encouraged to seek divorce from Henry Lewis in the way provided by the law of Canada. And without questioning the good faith of the party in the steps which she has taken, expressing also sympathy with her in the painful and trying position in which she has been placed, the Assembly deems it necessary, to avoid all offence, that she should not be regarded as in full communion with the Church until the requirements of the civil law have been duly complied with.

"In regard to the conduct of the Rev. D. Stewart in marrying to Thomas Phillips the person above referred to, the General Assembly find that they have no evidence before them upon which to pronounce any judgment."

If marriage was a civil contract—which no member of this Church would deny—they should not do anything which would ignore that fact. Marriage could not be complete and valid unless the conditions of the civil contract were observed—conditions which were allowed to be Scriptural, and which were imposed by the law. This divorce was not secured on the ground recognized by Scripture, or by the law of this country, viz.: adultery. They all sympathized with the woman, who, without doubt, was entitled to a divorce. But if the Assembly said that there was nothing wrong in this case they would be saying substantially that any person might cross the lines and seek a divorce under a law which we do not recognize as a law in this country. They would be saying, in fact, that if the ground of a divorce existed the parties might divorce themselves without even going to the States. He should deplore the Church placing itself in any such position as that. He believed the finding of the Committee was kindly in spirit towards Mrs. Phillips, and he thought they should stand by that woman and assist her to obtain a legal divorce. He would subscribe his last cent for that purpose, and if she were willing to take steps to secure a divorce that would satisfy the law of this country and the law of the Assembly he believed they would stand by her. Unfortunately, the state of our law in this matter was not very satisfactory. The obtaining of a divorce was certainly far too difficult. But they had been advised that parties could sue for divorce *in forma pauperis*, and there was nothing degrading in that. But he thought they should not ask this woman to sue *in forma pauperis*. The Committee did not say that she should be excommunicated, but that her connection with the Church should be interrupted until the requirements of the law were complied with. He moved that the finding of the Committee be the decision of the Assembly.

Prof. McLaren asked if it was possible for Mrs. Lewis to obtain a divorce now, she having married a second time, and being recognized in the present state of our law as living in a state of bigamy.

Principal Caven referred this question to the Hon. Alex. Morris.

Hon. A. Morris said it was impossible for the Committee to say what the course of Parliament would be in the matter. Mr. W. B. McMurrich, of Toronto, in seconding Principal Caven, argued that the divorce obtained by the woman was not one that the laws of this country recognized as valid. This Assembly should not so recognize it. Those parties today stood before them as man and wife, although this woman if prosecuted would certainly be convicted of bigamy. And if this Assembly condoned her action they might have as members of their Church children who, according to the law of the land, were illegitimate.

Rev. D. J. Macdonnell, in amendment, moved the following deliverance of the minority as the judgment of the Assembly:

"The minority of the Judicial Committee, while concurring in the historical statement prepared by the Committee in the case of Mrs. Phillips, and in the deliverance proposed down to the word 'placed,' desire to have the following substituted for the remaining portion of the finding:

"Considering the acknowledged difficulty of obtaining a divorce in Canada, considering further that there were sufficient grounds in this case for obtaining a divorce according to the law of Canada, the General Assembly does not deem it necessary in the present position of the matter to disturb the Church standing of the parties, inasmuch as there has been no moral offence committed."

It was stated before the Synod and the Committee that when the woman went before the Court of Illinois she was advised by the judge that it would be better for the sake of her child to fall from the plea of adultery, and to rest her case on the pleas of drunkenness and desertion.

Hon. A. Morris said that was not part of the evidence, and should not be alluded to.

Mr. Macdonnell said it had not been denied by any one. The minority all agreed in the strongest statements that could be made about the sacredness of marriage. They were agreed that they should not lend their sanction to a marriage that was not recognized by the law of the land. They were agreed that there was sufficient cause for obtaining a divorce on the ground our law did recognize. They were agreed also that if the divorce had been obtained in Illinois on the ground our law and the Scriptures recognized it would have been equally worthless in Canada with the divorce she had obtained. But though it was worthless he thought there could be no doubt that this woman thought it valid in this country; and the minister who married her to Mr. Phillips, as well as the issuer of the marriage license, knew all about the case and thought it valid. The question, therefore, was, Had there been in the action of this woman any such grievous moral offence as would render necessary her excommunication? He submitted that there had not been evidence of any very strong dissatisfaction in the Arthur congregation. No one had charged her with being an immoral woman.

Principal Caven read a finding of the session expressing doubt as to the validity of the divorce.

Rev. D. J. Macdonnell said that was no condemnation. An expression of doubt as to the validity of the divorce was

a very different thing from declaring that this woman was an immoral woman. There was no such feeling as would create scandal or agitation in the congregation or community if the woman remained. In his judgment, if the Assembly were to exclude this woman from the Church they would certainly give offence instead of avoid it, because some he knew would think that the Assembly had done an unjust thing. That a person had done a wrong or was not perfectly immaculate was no reason why he or she should not remain in the Church. The minority also agreed that the party should be "instructed and encouraged" to seek divorce in accordance with the law of Canada. They agreed that her position did not satisfy the law of Canada, and they wanted to see her placed quite right in relation to it. But the point on which the minority differed from the majority—the only point—was, that they did not think that while the process was going on she ought to be cut off from the Church, for the reason that she had done no moral wrong. A public and orderly course of procedure was followed in this case, and although it did not come up to the requirements of the law of Canada it came up to the requirements of the law of the Church. He denied that by adopting the deliverance of the minority the Assembly would be encouraging people to go to the United States for divorces or to divorce themselves. It depended on a chapter of accidents whether a divorce could be obtained in Canada. It depended on the Protestant members of the Senate being present in full force, or a number of French Canadians choosing to absent themselves. When our law was in that condition it was a very difficult matter to obtain a divorce in Canada. He did not think we should expect this woman to sue *in forma pauperis*, and that was why the minority inserted the words "considering the acknowledged difficulty of obtaining a divorce in Canada." This marriage would not have taken place but for ignorance of the law on the part of the officers appointed to execute it—the issuer of the license and the minister—and it was only under similar rare circumstances that a similar marriage could possibly take place in the future. In short, this woman had violated the law of the land in a technical sense. She had not done so in intention, and therefore he moved that the minority report be the judgment of the House.

Mr. Proudfoot, in seconding the amendment, expressed his belief that the woman had acted candidly and conscientiously, feeling that it was impossible to obtain a divorce in this country. She had made no secret of her actions. She notified her husband of her intention, and when she came back from the States she got her license at Arthur and was married by her own minister there. Therefore he thought they should not suspend her from membership. If they found that she did not take their advice it would be time enough to do that. The recommendation that the Church should help her to do that was an indication of the severity of the Committee's judgment.

Rev. Mr. Black, of Montreal, asked if this woman were guilty of bigamy how came it that no civil action had been taken by the Committee?

Principal Caven—The Committee had no intimation on that subject.

Rev. Mr. Black, Montreal, asked if the suggestion had come before the Committee that spiritual and comfortable advice should be given to this woman; that her duty meanwhile was to leave her present husband and return to her first husband until the issue was settled according to the requirements of the law.

Hon. Alex. Morris warned the Assembly of the evil result of its seeming to give its sanction to an action which made a man and woman husband and wife in one country, while they were simply strangers in another. He was prepared to say that this woman was not the wife of Phillips, but was still the wife of Lewis. Great scandal had already been caused by people in the Dominion taking advantage of the laxity of the marriage laws of the United States, and he hoped this Assembly would not sanction such conduct.

Professor McLaren—How comes it that neither the motion nor the amendment takes any notice of the husband, Mr. Phillips, who is a member of the Church?

Principal Caven—Because no reference was made to us in regard to the husband.

Dr. Matthews, of Quebec, contended that Mrs. Phillips had been guilty of nothing more than a mere technical irregularity. She had simply applied to the wrong tribunal for a divorce. But that did not make it invalid. A great many marriages in Scotland were irregular, but they were not invalid, and he questioned how far the Church of Christ was at liberty to apply her discipline for a technical irregularity in connection with the law of the land. The law of the land might notice it, but the Church should not. The Church was not bound to respect all the laws of the country. It was subject to a higher law, the law of Christ, and when the law of the land coincided with the law of Christ they should comply with it, primarily because it was the law of Christ, and secondly because it was the law of the land.

Principal Caven—In this case the law of the land and the law of Christ coincide.

Dr. Matthews—That is the very point I question. Only for this technical irregularity not a particle of scandal had arisen, and it was a matter with which the Assembly was not required to meddle.

Mr. Arch. Matheson declared that no one could say that this woman had done right, and no minister would stand up in his pulpit and tell others to do as she had done.

Rev. A. M. Sinclair supported the report of the Committee.

Dr. Bennett, of St. John, maintained that what was regarded as moral in one country ought to be held as moral in another. All the Presbyterian Churches in the United States would say that the divorce and the subsequent marriage were perfectly legal. Suppose these persons had applied for admission to the Presbyterian Church in the United States they would have been received, and if they obtained a certificate and presented it for admission to the Presbyterian Church in Canada would they not receive it? He thought they ought to. He held that our divorce law in Canada was not Scriptural. It was a law for the rich and not for the poor. He thought the proper course for this