

contracting parties. Josephine's conscience seems to have been, like Artemus Ward's, 'rather accommodatin'' on that March day in 1796. But it soon waked up and got to work. And then it tugged heavily at her soul. She begged her imperious lord for a religious authorisation of their union. But she begged in vain. This was one of the few matters in which she had absolutely no influence over the man who in later years became the dictator of Europe. The unhappy woman came at last to see that there was method in his stern refusal of her oft-repeated petition. She told Bourrienne (says Parsons) 'that from the day when Napoleon commenced to plot for the imperial crown, she had felt herself lost.' He was powerful, ambitious, unrestrained by any fine scruples. Her continued childlessness thwarted his dearest hopes, and she felt that when it suited his ambition or caprice he would take steps to annul their purely civil marriage and take a leaf or two out of the book of Henry VIII. of England.

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Such was the position in which the distracted Josephine found herself in 1801. In that year Napoleon was to be crowned Emperor of the French. Pope Pius VII. journeyed to Paris to take part in the august ceremony. Josephine opened her heart to him. 'The Pontiff,' says Parsons, 'was thunderstruck. In common with all of Josephine's friends—nay, all France—he had believed her marriage to have been sanctioned by the Church. . . . He could not, much as he lamented the fact, admit the Empress to a share in the consecration unless she were first united to Napoleon before a priest. When Napoleon was informed of Josephine's action and of the Pontifical decision, his rage was terrific. But what could he do? Proceed with his own consecration, and ignore the rights of Josephine? The scandal was not to be thought of; and the displeasure of the Pontiff, whose friendship he sadly needed, was not to be unnecessarily incurred.' Time was pressing, too, and no course seemed open to the imperial schemer but to consent to the proposed nuptials, under conditions that might possibly leave him some loophole of escape in case the marriage bond with Josephine might prove a burden to him. He imagined that the path to success lay through another evasion of the Tridentine decree—a marriage without witnesses, and in the presence of a priest, but not the parish priest of either of the contracting parties. Urgency, good name, public propriety were pleaded. Napoleon relied on his uncle, Cardinal Fesch, to 'see him through.' 'At first,' says our authority, 'Fesch refused to countenance what he rightly asserted would be a mockery of a religious solemnisation, and of no validity; but he yielded sufficiently to propose recurring to the Pope for the powers necessary for his own assumption of the office of the cure' (parish priest) 'of the Tuileries' (where Napoleon lived) 'and for the dispensation with witnesses.' Now the Pope, as the source of Canon Law, has the power of dispensing in its provisions. The ground was thus cut from under the feet of Napoleon's hope. Cardinal Fesch received from Pius VII. 'all the powers' that he needed, and all that the Pope could give, to deal with the case. He proceeded to the apartments of the Empress and there and then married the imperial couple. Witnesses were probably present, although by papal dispensation not required. The coronation took place amidst a scene of great splendor, and for the time all seemed well.

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By 1809 Napoleon had grown weary of his childless wife. He plainly intimated to his arch-chancellor, Cambaceres, that he desired a divorce. 'A senatus-consultus,' says Parsons, 'was immediately promulgated (December 16) proclaiming the dissolution of the Emperor's civil marriage. Napoleon had flattered himself that the religious marriage would give him no trouble whatever; it was a secret shared only by the Cardinal (his uncle), Josephine, and himself. But when he learned that

Fesch had indiscreetly mentioned the ceremony to Cambaceres, and that he had even given a certificate to Josephine, Napoleon found himself compelled to seek from the ecclesiastical authorities a declaration of the nullity of the union.' Now, in Canon Law, the matrimonial causes of sovereigns and other heads of States are reserved to the Pope. He is their proper judge. Without his sanction, no other ecclesiastical tribunal is competent to deal with them. Napoleon ignored this old and well known provision of ecclesiastical law. Pope Pius VII. was then Napoleon's prisoner at Savona. But the western autocrat did not dare to apply to him for a divorce. He well knew what the issue would be. So he laid his case before a diocesan tribunal in Paris. Its jurisdiction was restricted to adjudicating upon similar cases between private individuals. It had no power, either original or delegated, to deal with the case of Napoleon and Josephine. All this was duly pointed out to the Emperor by the Abbe Rudemare. The tribunal was, moreover, composed of subjects of his own. And, in the evil circumstances of those troubled times, these could hardly be deemed to be in a position to give an independent and unbiassed judgment. Seven spineless 'State' prelates of those post-Revolutionary days were found weak enough to declare, in the face of the plain provisions of Canon Law, that the Paris tribunal was competent to decide the matrimonial cause of the imperial pair. So the complaisant tribunal sat. It went through the form of taking evidence, and listened to the autocrat of Europe solemnly declaring that he had not consented to the marriage, having been constrained in the exercise of his free will. And in the end judgment was pronounced by the subjects in favor of their imperial and imperious master.

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Judgment was pronounced. But even that sycophantic tribunal did not pronounce a decree of divorce—that is, they did not profess to dissolve an existing marriage tie. They did not recognise the civil union; they denied that a religious marriage had ever existed between Napoleon and Josephine; they declared that the private ceremony conducted by Cardinal Fesch was null and void; and they pronounced the imperial pair bachelor and spinster and free all through from the matrimonial bond. Their decision was ultra vires. It was false in fact, and wrong in law. But they did not fall into the deeper depth of declaring that any tribunal on earth can break the bond of a consummated Christian marriage. It is, in a real sense, a misuse of terms to speak of the 'divorce' of Napoleon and Josephine. The author whom we have chiefly followed sums up the case as follows: 'An incompetent court, listening to testimony evidently false as well as interested, and ignoring the manifest suppression of what would have given another aspect to the cause, slavishly bent to the will of an autocrat, and passed over as never having occurred a marriage sanctioned by the Vicar of Christ; and, turning to the civil union, which the Church had never recognised, pronounced the contracting parties free to enter upon new nuptials.' Those were not the days of railways, telegraphs, and swift postal services. 'Had Josephine,' continues our author, 'resisted the imperial will—had she performed her duty as wife and woman, and carried her case before its proper judge—her rights would have been proclaimed, even though the brute force of her husband might have forced her to yield her place to another. But she never appealed. Sute of her husband's invincible determination to repudiate her, she perforce found consolation in an empty title and in a magnificent establishment.' The case of Jerome Buonaparte and his American Protestant wife serves, even in the case of Napoleon's own family, to show how inflexible the Holy See is in guarding the unity of the marriage bond.

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