

The Brother or Sister is Not Bound

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Another look at the New Testament Teaching on the Indissolubility of Marriage

by Brian Byron

The current spate of writings on the Christian attitude to divorce is remarkable for its almost complete unanimity in allowing for the possibility of dissolving the marriage bond.¹ Moreover, there seems to be widespread belief that it is not only possible but highly desirable, if not desperately necessary, for the Catholic Church to change her discipline in this matter. Such a change would indeed be a drastic reversal of belief and practice, yet biblical and historical research indicates that the New Testament doctrine is not without its difficulties and that there was in fact toleration of divorce in the early Church both in the writings of certain Fathers and in the practical discipline of particular Churches. Many have concluded that these facts make it evident that the Church has more power in dissolving marriages than it exercises at present.

Whilst there is this frequent conclusion, authors nevertheless arrive at it by different routes. Some argue that our Lord's teaching was meant as an ideal rather than a law; some hold that the Church, in exercising the power of the keys in this matter, is not a mere human authority, but that she is using divine power, hence it is not man who 'puts asunder' the marriage bond, but God acting through his Church; others, again, seem to base their case on the spirit of compassion for human imperfection which was such a marked aspect of Christ's dealings with sinful man. These opinions may or may not assist the authorities concerned in their task of reviewing marriage legislation in Canon Law. They will wish to adhere with the utmost loyalty to the evangelical value proposed by Christ in his teaching on marriage and they will look for a clear biblical precedent before departing from the present position. For whatever else may be said about the Church's marriage laws, they have enabled her to bear witness to the world that marriage is a union forged between man and woman by God himself, and man may not sunder it. In restoring marriage to its original ideal, Jesus was applying to it his general teaching of the primacy of charity in every aspect of human life. A Christian's love must be maximal, without reserve; it must be

¹Arguments for and against indissolubility are presented, e.g. by V. J. Pospishil, *Divorce and Remarriage: towards a new Catholic Teaching*, New York, 1967; W. J. O'Shea, 'Marriage and Divorce: the Biblical Evidence', *Austr. Cath. Rec.*, Vol. XLVII, No. 2, April, 1965, pp. 89-109; Thomas Thompson, 'A Catholic View of Divorce', *Journal of Ecumenical Studies*, Vol. 6, No. 1, Winter, 1969, pp. 53-67; William W. Bassett *et alii*, *The Bond of Marriage—an Ecumenical and Interdisciplinary Study*, Notre Dame, 1968; Adrian Edwards, 'Marriage and Mysterion', *New Blackfriars*, Vol. 51, No. 603, August, 1970, pp. 382-388; P. McEniery, 'Divorce at the Council of Trent', *Aust. Cath. Rec.*, Vol. XLVII, No. 3, July, 1970, pp. 188-195; M. West and R. Francis, *Scandal in the Assembly*, a Pan Book, London, 1970.

patient, forgiving and lasting. If this is true generally, how much more should it be between the married!

The New Testament records of our Lord's sayings about marriage are a curious blend of his original words and their interpretation by the early Church. A comparison of the texts clearly brings this out: there are some very revealing variations. If we take the lowest common denominator as the nearest we can get to the words of Christ himself, the rest will indicate attempts by different communities to apply them to real life. Their interpretations will perhaps enable us to understand better what exactly he meant. In re-examining these texts, we must rid our minds of concepts which essentially belong to later theology and Canon Law—such notions as *sacramental* and *natural* bonds, *Pauline privilege*, etc. It is my intention to look again at these texts to see exactly what they say and what they do not say. I will make several personal observations and the reader must decide how justified they are. First, it is interesting to place side by side certain relevant texts from the Synoptic gospels (R.S.V.): Matthew 5: 32. But I say to you that everyone who divorces his wife, except on the ground of unchastity, makes her an adulteress; and whoever marries a divorced woman commits adultery.

Matthew 19: 9. And I say to you: whoever divorces his wife, except for unchastity and marries another, commits adultery (*some ancient authorities add: and he who marries a divorced woman commits adultery*).

Mark 10: 11. Whoever divorces his wife and marries another, commits adultery against her; and if she divorces her husband and marries another, she commits adultery.

Luke 16: 18. Everyone who divorces his wife and marries another commits adultery, and he who marries a woman divorced from her husband commits adultery.

Comparing these texts one may reasonably conclude that the Lucan text is the nearest we have to the original saying. Each of the other sources have additions or variations but these may reflect the way in which particular cases were judged.

Before going on to examine these differences, I would offer a comment on the nature of this core of Christ's teaching. It is true that Matthew 5, 32 gives the ruling about divorce in a context which could suggest that it was proposed as an ideal for which man ought to strive just as he should learn that perfect self-control which eliminates violence, or just as he should cultivate truthfulness and trust so that all oaths would be unnecessary (cf. Matt. 5, 33 ff). It could be argued that the Church still proposes these ideals but nevertheless permits the use of force and oaths in defence of rights or the common good. Perhaps she could consistently urge permanency in marriage as an ideal yet still allow divorce in certain circumstances. Against this, however, is the context in 19, 9 where the discussion is not about an optimum ideal but the very practical matter of inter-

preting the Law for real cases. Christ's teaching seems therefore to be not merely an ideal to be seriously pursued, but a moral imperative with implications for social reform in matrimonial life.

I think it may be presumed that the primitive Church understood Jesus' words in the sense of a moral precept. Whatever regulations she drew up with regard to marriage would have incorporated this moral ideal. It is difficult to believe that the first Christians did not accept Christ's teaching as binding in a strictly moral sense; it is difficult to believe that their casuistry allowed real exceptions which would have taken all the positive force out of his doctrine.

With these thoughts in mind, let us now examine the variations among the texts. First of all, the famous Matthean 'exception' has caused endless comment. I do not propose to go over the many opinions that have been suggested.¹ Since the clause is found only in Matthew, it seems that it was not part of the original saying and that it was included because of cases which had come up in the particular community to which the evangelist belonged. I do not believe that the clause permits divorce because of adultery and this for the standard reasons. But I would add an *a priori* argument, *viz.*, that it seems to me that Jesus would have required an injured partner to forgive his adulterous spouse. One of the most emphasized doctrines in all of his teaching is that we must forgive one another from our hearts if we wish to be forgiven by God. It seems unlikely that it was Christ's mind or the mind of the primitive Church that the innocent party should send away an adulterous spouse. This impression is enhanced when we remember our Lord's own compassion towards the woman taken in adultery (John 8, 1-11).

The second variant to which I draw the reader's attention is Matthew 5, 32, '... everyone who divorces his wife . . . makes her an adulteress'. Matthew 19, 9 and Luke 16, 18 both proceed as expected: 'whoever divorces his wife . . . and marries another commits adultery'. Hence the original saying is probably best preserved in these latter texts. So a man who divorces his wife and remarries is guilty of the sin of adultery. Matthew 5, 32 may also be original or it may be an extension of Christ's thought by the writer: such a man is also guilty of putting her into a position where she sins by remarrying. The phrase, 'and whoever marries a divorced

¹cf. my article, 'The Meaning of, Except it be for Fornication', *Aust. Cath. Rec.*, Vol XL, No. 2, April, 1963, pp. 90-95. I would now need to qualify many statements in this article, but I still think that the basic position is theoretically possible. Thompson rejects this interpretation, *op. cit.*, pp. 55-56, footnote 8. The fact that Greek has a specific word for concubine, *hetaira*, as he points out, would seem irrelevant because the generic word *gyne* was in fact used and the composer of the Gospel thought it necessary to clarify the specific case of a union with a woman who was not a wife. No doubt he did this because a ruling had been made that certain unions were invalid and even immoral for some reason, perhaps prohibited degrees of kinship, which the word *porneia* possibly means in Acts 15: 20 ff. Certainly in 1 Corinthians 5: 1 St Paul uses *porneia* to describe the incestuous marriage of a man to his step-mother. To my knowledge *porneia* has in the New Testament the generic meaning 'unchastity' but is never used simply for adultery. That Christian authors later used it in the sense of adultery is probably due to the fact that they had already misinterpreted the Matthean exception.

woman commits adultery', is found both in some versions of Matthew 19, 9 and in Luke 16, 18 and so it may also be an original saying. It seems to me that this element of the teaching supports the contention that the whole doctrine must be accepted as a practical moral norm. When it is spelt out in such detail so that even a dismissed wife cannot remarry, it becomes even more evident that Christ was attacking the social evil of divorce and that the early Church was concerned with implementing his reforms. The dismissed wife cannot remarry because the husband must take her back; she remains his wife and anyone who marries her commits adultery and makes her an adulteress.

The Marcan text also has slight differences: 'Whoever divorces his wife and marries another, commits adultery *against her*; and if she divorces her husband and marries another, she commits adultery' (Mark 10, 11-12). Among the Jews, adultery was thought of only in terms of injury to the rights of the *husband*, but remarriage by the husband after divorce is here seen as an injury against the *wife*. The case of the wife divorcing the husband is also an addition for the benefit of gentiles under Roman law which allowed such a practice. Among the Jews, divorce was the prerogative of the husband. Again, we may point out that this influence by a legal system supports the contention that the first Christians thought of Christ's teaching as morally binding and as being expressible in legal terms.

St Paul's treatment of marriage regulations in 1 Corinthians 7, 10 ff. contains basically the same doctrine, but again with his own nuances. The first case he discusses is that of a wife *leaving* her husband. She may not do so, says St Paul. If she does, she must remain single or else be reconciled. This is a new case. The Synoptics discussed only the case of the *dismissed* wife, but Paul's case is that of a wife who *deserts*. The apostle then adds the standard teaching: 'the husband should not divorce his wife.' (7, 11.)

'To the married I give charge, not I but the Lord, that the wife should not separate from her husband (but if she does, let her remain single or else be reconciled to her husband)—and that the husband should not divorce his wife.

'To the rest I say, not the Lord, that if any brother has a wife who is an unbeliever, and she consents to live with him, he should not divorce her. If any woman has a husband who is an unbeliever, and he consents to live with her, she should not divorce him. . . . But if the unbelieving partner desires to separate, let it be so; in such case the brother or sister is not bound. For God has called us to peace.'

At this point, it will be useful to summarize what has been said in our texts: a man may not divorce his wife and a wife may not divorce her husband; a man who marries a divorced wife commits adultery and the divorced wife herself is an adulteress if she remarries; a wife may not separate from her husband and a wife who does desert her

husband may not marry but should return to him or else remain single. It is not explicitly stated in any text we have considered that a *deserted* partner may not marry again. It is not simply a question of an *innocent* party, for a *divorced* spouse may be quite innocent and yet is not allowed to remarry. But there is no explicit prohibition of remarriage by a *deserted* partner. At the most, it seems to be implied that a deserted party should take back the repentant spouse and should remain single to do so; but this is *only implied*. This may or may not be significant but I mention it because the final point in the texts we have to consider is the so-called 'Pauline privilege', which is precisely a case of *desertion*.

I Corinthians 7, 12-13 reaffirms the general prohibition against divorcing a husband or wife even if he or she is an unbeliever. But in v. 15, Paul considers the desertion of the Christian by the unbeliever: 'if the unbelieving partner desires to separate, let it be so'. Although Paul does not explicitly allow the possibility of remarriage, he does say that the Christian 'is not bound', which seems to admit freedom for another marriage.

What is the reason for this permission? It must be pointed out that there is no evidence that Paul was thinking of the case in terms of a natural bond as opposed to a sacramental bond.¹ His marriage doctrine depends on the Lord's, in which there is no question of marriage between *baptized* people as such. Rather the point of reference is marriage in the original intention of the Creator. St Paul himself does not refer to the pagan partner's lack of *baptism*, but only to his lack of *faith*, although of course he would not have been baptized. I would propose then that St Paul realized that Christ had not included the *deserted* party in his doctrine on divorce and that in a particular circumstance, *viz.*, when the deserter is an unbeliever one who does not accept the Christian doctrine of marriage, and hence when there is no likelihood of reconciliation the deserted Christian is free. I do not think it is stretching a point to say that Paul realized that Christ had not included this case (of desertion) in his teaching because the term *divorce* had a strong, active, transitive sense among the Jews. It meant, *to put (someone) away, to send (someone) away*. The Christian teaching forbade anyone *to send away* a wife or husband. It forbade anyone *sent away* to remarry, presumably because there was an obligation of reconciliation. (Once any chance of reconciliation was gone, however, it could perhaps be argued that the innocent party, the party who had been 'sent away', is now in the position of the deserted spouse and so becomes free.) Christ's teaching, therefore, amounted to this: it is sinful *to break up* a marriage (a) by sending away a spouse; (b) by marrying a dismissed spouse and by the dismissed spouse entering such a marriage, and (c) by deserting.

I have already pointed out that in the case Paul gives, the person

¹Thompson, *art. cit.* p. 63.

who deserts his partner is described not as an *unbaptized* person, but as an *unbeliever*. Could we not argue that many of those who desert their partners today do so because they are *unbelievers*? It seems most unrealistic that the granting of the Pauline privilege should be restricted in our times by understanding Paul's *unbeliever* as an *unbaptized* person. In these days when infant baptism is the rule, there are many adults who are Christians only in name and who do not have any true faith, are not in any real sense *believers*. If such an unbeliever deserts a Christian spouse, surely, when there is no hope of reconciliation, that Christian should be free, 'for God has called us to peace.' (1 Cor. 7, 15.)

If we can accept the conclusion that a Christian who has been permanently deserted may be permitted to remarry, then another interpretation of the Matthean clause, 'except for unchastity', becomes possible. The Greek word *porneia* often had the meaning of *concubinage*. The case envisaged in the clause would be that of a person deserted by a spouse who then begins cohabiting with a new partner. The original partner is freed, not precisely because of adultery, but because of the definitive desertion inherent in the unfaithful party's concubinage. This interpretation has the advantage of giving the word *porneia* a usual sense and fits in naturally with the flow of meaning in the sentence. The case referred to in the exceptive clause would then be essentially identical with the Pauline case as I have understood it in this article.

Let us now review the whole gospel doctrine on marriage, trying to express it in terms that have significance for the twentieth century yet which preserve the primitive revolutionary strength. Christ's teaching on marriage as an indissoluble union is a *moral* ideal—one which is to be pursued as seriously as chastity, justice, honesty, indeed as charity itself. But like the rest of Christ's teaching, it will mean little to those who do not have a prior genuine commitment to the moral good, or, to be more concrete, to those who do not commit themselves to Christ in faith. So let us concentrate on what this teaching of Christ will imply for his disciples because it is in these that the Church must be primarily interested.

Take first the case of two believing Christians who are earnest in their adherence to Christ and are honestly endeavouring to live out their faith in their lives generally and in their marriage in particular. They will believe that they have become one, having been joined together by God (Matt. 19, 5). They will know of their obligation to love one another—the husband loving the wife, 'as Christ the Church', and the wife exercising a loving obedience to her husband 'as to the Lord' (Eph. 5, 21-33). The question of divorce can never arise for such people. I do not mean that it never *will* arise because there can always be friction while we are yet pilgrims. But even if love seems to have died between such people, the Christian solution can never be divorce. The solution to the problem of the lack of love

cannot be the destruction of the marriage, just as the solution to the problem of unwanted children is not abortion. The only solution for those who wish to follow Christ is to rekindle love and to forgive one another. If they cannot do this and are separated, they may not remarry. Even in the extreme case of adultery (i.e. *simply* adultery without desertion or its equivalent) a fall due to human weakness, the innocent spouse ought to forgive the repentant sinner and be reconciled in renewed effort to make their marriage a mirror of Christ's union with his Church. Christ's own unlimited fidelity to his frequently sinful bride, the Church, will be the model for an offended Christian spouse.

Nor may a Christian simply *desert* his partner, even if that partner is not herself a Christian. He must always seriously endeavour to offer the married love of a Christian to his partner, to exercise forgiveness and patience. Again, divorce can never be a solution to his problems. He may in no way *initiate* the break-up of the marriage by seeking divorce or by deserting.

However, if an unbeliever deserts a believer, then I maintain we have a case where the Christian is freed from the marriage contract. This is, of course, the Pauline privilege, but I wish to give the term *unbeliever* a real, existential meaning. Of course, Paul himself was referring to a pagan who in fact was not baptized. But he does not refer to the lack of *baptism* but to the lack of *faith*. It is my contention that there are many baptized people who are, in fact, unbelievers. They do not take seriously Christ, his Church or the sacrament of marriage. We are all familiar with such cases. If such a person effectively deserts a practising Christian, the Church should consider the Christian free to marry again.

Perhaps the Church can go further and exercise the power of the keys, because of the hardness of men's hearts, in cases other than that of desertion, where she recognizes that there is no possibility of reconciliation and where marriage would be of moral and spiritual benefit to parties who present themselves to her so that they can marry 'in the Lord'. After all, the system of divorce which Christ attacked, no longer exists. Because it was the husband's prerogative, wives had no security within marriage and were at a grave disadvantage if given a bill of divorce and dismissed. It is true that today's breakdown of marriage is as much a scandal in society as it was in Christ's time and those who utilize the divorce system are just as reprehensible as those whom he declared to be guilty of adultery. Certainly the Church cannot condone this system. But *post factum* may she not exercise mercy, *in favorem fidei*, for people whose earlier marriages are irreparably destroyed, for instance, by the remarriage of the other party? On the level of personal values, there is much to commend this position.

There is much in the Church's legislation which is imperfect from an ecumenical and evangelical point of view. The insistence on

canonical form for validity is detrimental to Christian harmony, and it is against the whole drive of Christ's teaching which was to confirm the marriage union rather than to allow a way out.¹ It may be unfair to develop this criticism further since the work of revising, simplifying and 're-evangelizing' the Code is at present in hand.

My principal concern in this article has been to suggest that there is a sacramental and indissoluble bond between two sincere believers, that a believer cannot destroy his marriage by divorcing or abandoning his spouse, even an unbeliever, but must be prepared to be patient, loving and forgiving without limit. But should the believer himself be deserted by an unbeliever with no hope of reconciliation, then the believer is no longer bound. I use the term *believer* in a sense not simply synonymous with *baptized*, but with a real, existential meaning as one genuinely committed to Christ, one therefore capable of this sacramental act which symbolizes Christ's covenant with his Church.

¹George Gallen, 'Proposal for a Modification in the Juridical Form of Marriage', *Aust. Cath. Rec.*, Vol. XXXVIII, No. 4, October, 1961, pp. 314-28.

NEXT MONTH IN NEW BLACKFRIARS

'... Men like P. J. McLean, Pat Shivers and Hugh Montgomery had been kept for five days without food or sleep and with a cloth bag tied tightly around their heads. They had been subjected to "disorientation techniques" ... repeatedly beaten and questioned for hour after hour. They had no idea where they were and their families couldn't find out for over a week where they were eventually taken. All lost between 10 lb and 20 lb in weight and entered Crumlin looking like ex-inmates of Belsen. ...'

JOHN MCGUFFIN, advocate of non-violence, political opponent of Mr Brian Faulkner and interned by him for five weeks, describes his experiences.

GEOFFREY PRESTON, O.P., writes about Baptism.

GRAHAM D. MARTIN writes on the structuralism of the *Tel Quel* group in Paris.

DAVID LODGE considers Normal Mailer on Women's Lib.

WILLIAM JERMAN of IDOC writes on a new move in the Curial power-game.

Correction: We regret that in our review of *Breakthrough* by Mark Schoof, o.p., the name of the publishers was given incorrectly. The book is published by Gill & Macmillan Ltd.