

21/82 The Remarriage of Divorced Persons

(A report from the Diocesan Doctrine Commission)

In response to Synod resolution 21/82, an interim report was presented to Synod in October 1983 and reactions from Synod members were sought. A number of submissions were received and these were used by the Commission in the preparation of this revised edition.

1. Introduction

1.1 This report has been called forth by the problem of marriage breakdown in our community. We are all aware of the incalculable pain caused by the destruction of families and the need for wise and compassionate ministry to those involved. We are aware, too, of the tension that exists for congregations and their ministers in endeavouring to pursue a policy which will both express the standards for the Christian life set out in Scripture and offer practical and emotional support to those whose lives have been marred by broken relationships.

1.2 The task set for the Diocesan Doctrine Commission was to give attention to an important but relatively narrow part of the total problem, namely the question of whether, and on what grounds, the remarriage of divorced persons according to the rites and ceremonies of the Anglican Church should be permissible during the lifetime of the former spouse.

1.3 Christians have differed markedly in their responses to the question of divorce and remarriage. We have considered the way in which the matter has been approached both past and present, and the options include the following:

- (a) No divorce.
- (b) No remarriage after divorce.
- (c) Remarriage by the innocent party after divorce on the ground of adultery.
- (d) Remarriage by the innocent party after divorce on the grounds of adultery or desertion.
- (e) Remarriage after irretrievable breakdown of marriage demonstrated by the fact that reconciliation is impossible, but any party standing in the way of reconciliation ought not so to be remarried.
- (f) Remarriage on the grounds of irretrievable breakdown of marriage without fault being considered as relevant.

1.4 Why do we differ? Even amongst Christians who accept the scripture as authoritative, opinions are various. It is important to pursue the question of why variety occurs, since it means that we will examine and justify our methods of arriving at ethical conclusions and be prepared to allow for conscientious differences where we perceive that those working with identical or similar presuppositions come to different conclusions. It must also be recognised that even those who agree on exegesis may disagree to some extent on application owing to the different weight we give to factors arising from church and society.

1.5 In the Report we have adopted the following procedure:

- (a) Biblical exegesis of texts relevant to marriage and divorce.
- (b) Synthesis and application of Biblical evidence.

It must be emphasised that our chief concern is to find the will of God as expressed in Holy Scripture in the belief that no pastoral policy should be pursued that contradicts God's word.

2. Marriage and Divorce in the Old Testament

A Definition of Marriage

2.1 Marriage, though not specifically defined in the Bible, may provisionally be described as a God-ordained exclusive personal relationship between a man and a woman, based on the sexual differentiation in creation, which is normally established by an exchange of promises. It is a relationship in which each partner gives himself or herself wholly to the other. Marriage as recognised by the state today may be de facto on the basis of cohabitation and sexual union and de jure only when a formal commitment before witnesses is made and registered with the appropriate authorities. The Anglican Church in Australia recognises that commitment before witnesses either in a church building or in a registry office is the appropriate way to initiate the marriage relationship ordained by God in Scripture. This personal relationship, which is intended to be permanent, is described in Scripture in covenantal terms (Malachi 2:14). Cohabitation without commitment is fornication and is explicitly condemned by God. Some form of public exchange of vows is necessary to differentiate cohabitation from the reality of a marriage covenant between two people.

Marriage was customary in Biblical Times

2.2 There is no word for "bachelor" or "spinster" in the OT. The record of the creation of Eve (Gen. 2:18-24) indicates the unique relationship of husband and wife, and the language of marriage is used to describe the relationship between God and his people (Jer. 3; Ezek. 16; Hos. 1-3) and between Christ and his church (Eph. 5:22-23). Jeremiah's call to remain unmarried (Jer. 16:2) is a unique prophetic sign, but in the NT it is recognised that for some Christians celibacy can be God's will (Matt. 19:10-12; 1 Cor. 7:7-9). Marriage and family life are, however, the calling for most Christians.

Monogamy and Polygamy

2.3 The story of the creation of Adam and Eve (Gen. 2:21-24) presents monogamous marriage as the will of God. There may be theological significance in the fact that polygamy first appears in the reprobate line of Cain, when Lamech took two wives (Gen. 4:19). Although polygamy is not forbidden in Scripture, it is not endorsed and it would appear that God left it to man to discover by experience that his original institution of monogamy was the proper relationship. The Wisdom

literature does not mention polygamy, while the Proverbs, in particular, show the norm as the union of one man with one woman. A fully personal bond is said to exist between husband and wife, and although the ancient view outside Israel depicted a wife simply as a child-bearer and a chattel, the Proverbs describe a wife as an "intimate companion" and the closest of friends (Prov. 2:17; cf. 16:28, 17:9 where allup is used). The prophets, who represent Israel as the one wife chosen by the one and only God, had the image of a monogamous marriage before them (e.g. Hosea 2:4f; Jer. 2:2; Isa. 50:1; 54:6f; 62:4f). Even the extraordinary presentation of Ezekiel 23, in which God is presented as the husband of two wives, further demonstrates this point. The distortion of the monogamous marriage between God and Israel arose as the judgement of God for Israel's sin. The picture of Ezekiel 36-37 is of the ultimate reunion of Israel and Judah as one nation betrothed to God.

2.4 The OT shows that polygamy brings trouble, and often results in sin, e.g. Abraham (Gen. 21) Gideon (Judg. 8:29-9:57), David (2 Sam. 11, 13) and Solomon (1 Kings 11:1-8). In view of Oriental customs, Hebrew kings are warned against polygamy (Deut. 17:17). The presence of several wives did not make for peace in the home. Family jealousies arose from polygamy, as with Elkanah's two wives, one of whom is an adversary to the other (1 Sam. 1:6; cf. Lev. 18:18). Although it seems there was no limit to the number of wives and concubines a man might have, in practice only royalty could afford a large harem, and most others had one wife, or at the most two (cf. 1 Sam. 1:2, 2 Chron. 24:3; note Deut. 21:15-17). Clearly the most common form of marriage in Israel was monogamy, and it is noteworthy that the Books of Samuel and Kings, which cover the entire period of the monarchy, do not record examples of polygamy among commoners (apart from Samuel's father, at the beginning of the period).

A "One-flesh" Relationship

2.5 Marriage is described in Gen. 2:24 as becoming "one flesh". The verse begins by describing an action that does not correspond to Hebrew marriage customs at all ("a man leaves his father and mother"). It was the woman who left her home: the man remained at home and the woman joined his family. The force of the words, therefore is to stress that the primary relationship with father and mother is now superseded by this new attachment between husband and wife. The reciprocal thing is said of women in Psalm 45:10-11 and Ruth 2:11. The positive act ("and cleaves to his wife") does not refer primarily to sexual intercourse but, as in other contexts, refers to commitment (cf. Deuteronomy 10:20, 11:22, 13:4, 30:20, Psalm 91:14). If sexual intercourse was specifically in view, other terms, technical and unequivocal, could have been employed. In fact, the Israelite view of marriage seems to be that the relationship is created by betrothal. There is no distinction between fiancée and wife in passages like Genesis 29:21, Deuteronomy 22:23-29, Matthew 1:18-19. For all that, it is clear that the bond of coitus lies at the heart of the unique union of marriage as a sign and seal of that special relationship. In Genesis 2:24 the expression "and they become one flesh" apparently means that "leaving" one's parents and "cleaving" to one's spouse establishes a form of kinship. Clearly, this kinship is not the same as the natural, blood kinship within a family (cf. Genesis 29:14, 37:27) and thus the nature of the kinship in marriage cannot be defined and determined simply by what we know to be true of the kinship of blood.¹¹ However, the language of this verse certainly emphasises that the marriage union takes precedence over every other tie of kindred.

2.6 Polygamy, though impairing the one flesh bond between two people, is apparently not a severance of it in the way that adultery is (see below). A man's second wife is seen as the embracing of another union rather than a repudiation of the original relationship. Without approving polygamous arrangements, God regularises the status of the offspring of such marriages (Deut. 21:15-17; 2 Sam 12:24) and God does not permit the obligations to a second wife to impair the obligations to the first wife.

Divorce in the OT

2.7 Clearly in the Old Testament divorce means the formal dismissal of a wife by her husband (women were not permitted to divorce their husbands in this sense). The custom of writing a bill of divorcement seems to have been mandatory (cf. Deuteronomy 24:1 and paragraph 2.13(iii) below). A synonym for divorce is the expression "put her away" (cf. Deuteronomy 22: 19, 29, Isaiah 50:1) or "sends her out of his house" (cf. Deuteronomy 24:1), with "a bill of divorce in her hand"). Divorce requires an element of public recognition before it becomes fully a true divorce.

2.8 That marriage was regarded as inviolable in the OT is borne out by the initial absence of any reference to the possibility of breaking it. Marriage makes the two partners one, and the husband must keep the oath sworn to his partner. Divorce by its very nature is abhorrent to the lord because of his own faithfulness as the God who keeps covenant with his people and who requires faithfulness from his people (Malachi 2:14-16). Divorce represents a repudiation of the covenant of marriage and an attack upon the kinship established by the one flesh relationship of marriage.

Adultery

2.9 The condemnation of adultery in the Decalogue (Ex. 20:14, Deut. 5:18) is placed between the prohibitions of murder and stealing, thus showing its gravity, as a sin against one's neighbour. Lev. 18:20 shows this sin has a religious dimension, while the incidents in Gen. 20:1-13 and 26:7-11 also represent adultery as a sin against God (cf. Also Genesis 39:9 "how then can I do this great wickedness, and sin against God?")

2.10 If a man has sexual relationships with a married woman, both are put to death (Lev. 20:10, Deut. 22:22) and a girl engaged to be married is treated exactly like a woman already married (Deut. 22:23f.). The penalty was normally death (though note Num. 5:11ff.) By stoning (Deut. 22:23f; Ezek. 16:40; cf Gen. 38:24 which may be a reference to an ancient practice of death by burning). All this shows the immense seriousness with which adultery was regarded in OT times.

2.11 The case of Hosea, though a particular "prophetic lesson to Israel", indicates that adultery does not necessarily mean the end of a marriage. God's covenant love for Israel, of which Hosea's love for Gomer is a parable, survives her unfaithfulness and idolatry (spiritual adultery) and eventually wins her back to be his bride. While there are certain basic differences between God's making a unilateral covenant with Israel and two persons making a bilateral marriage covenant,

Hosea should remind us that forgiveness and restoration are real options in a marriage where unfaithfulness has taken place.

The Divorce Provision of Deuteronomy 24:1-4

2.12 This passage occupies a unique place in the OT since as no other it has specific legislation bearing on the question of divorce. It does not make divorce mandatory; nor is it encouraging or advising men to put away their wives. It simply provides that if a man puts away his wife and she marries another, the former husband cannot under any conditions take her again to be his wife.

2.13 We note several things –

- (a) It is fully conceded that divorce was practised. This is taken for granted in this passage, so much so that under certain conditions it is permanently valid and inviolable (cf. Lev. 21:7, 14; 22:13; Num. 30:9; Deut. 22:19, 29; cf. Isa. 50:1; Jer. 3:1; Ezek 44:22)
- (b) It is also conceded that divorce was permitted or tolerated. It was conceded or suffered as the actual status quo, and the penalty of ecclesiastical or civil ostracism did not attach to it. It is necessary, though, to distinguish between sufferance or toleration on the one hand, and divine approval or sanction on the other. First, it is not intrinsically right or desirable. Behind the act of divorce itself there is an intrinsic wrong not compatible with God's absolute standard of right. For the hardness of their heart Moses suffered them to put away their wives.
- (c) The Bill of Divorcement. This seems to have been mandatory in the case of dismissal. It was a legal document and therefore served as a deterrent of hasty action on the part of the husband. It was also a testimonial to the woman of her freedom and a benefit protecting the divorced wife.
- (d) The "Unseemly Thing". The ground for divorce here (ervath dabhar) has been translated as the "nakedness of the thing", the "shameful thing", the "unseemly thing", "some uncleanness" (AV) or "some indecency" (RSV). Three main views of interpretation were in existence amongst the Rabbis of NT times. According to the Talmud Mishnah Gittin 9:10: "The house of Shammai says: A man must not divorce his wife unless he has found her unfaithful. As was said (Deuteronomy 24:1), 'Because he has found some uncleanness in her'. The house of Hillel says: He may divorce her if she only spoiled a dish from him because it was said: Uncleanness is anything. Rabbi Akiba says: He may divorce her if he found another that is more beautiful than his wife, because it was said (Deuteronomy 24:1) 'If it comes to pass that she find no favour in his eyes'." However, modern commentators are generally convinced that the Hebrew expression denotes some kind of shameful conduct connected with sex.
- (e) Deuteronomy 24:4 indicates that a woman who has been divorced and remarried may not under any circumstances remarry her first husband because she is (lit.) "For him unclean". This does not mean that she is defiled in herself and therefore unable to remarry anyone but rather that resumption of the first relationship is impossible. An assumption of the passage is that remarriage may be appropriate even after a second divorce.

2.14 There are two situations in which divorce is forbidden: when a man has falsely accused his wife of pre-marital unfaithfulness (Deut. 22:13-19), and when a man has had relations with a girl, and her father has compelled him to marry her (Deut. 22:28f., Exod 22:16f.).

2.15 On exceptional occasions in the OT divorce was insisted on: when the returned exiles had married pagan wives (Ezra 9, 10; Neh. 13:23ff.).

3. Divorce and Remarriage in the New Testament

Mark 10:1-12

3.1 Mark introduces the question about divorce with a note indicating the return of Jesus to the territory of Herod Antipas (v.1). John the Baptist had condemned Herod's marriage (6:17f.) And it may well be that the question of the Pharisees in this context was "to compromise Jesus in Herod's eyes, perhaps in the expectation that the tetrarch would seize him even as he had John".⁽²⁾ Their general question ("Is it lawful for a man to divorce his wife?") is met with a counter-question ("What did Moses command you?"), perhaps with the positive teaching of Genesis 2:24 already in view. The Pharisees answer with the permission of Deuteronomy 24:1, which provided the protection of a certificate of divorce for a woman repudiated by her husband and allowed her to remarry (v.4). Jesus' reply indicates that the purpose of Deuteronomy 24:1-4 was not to make divorce acceptable but to limit human sinfulness and to control its consequences (v.5).

3.2 Jesus' appeal to Genesis 1:27 and 2:24 takes the discussion beyond the question of regulations made necessary by "hardness of heart" to the Creator's original intention with regard to marriage (vv. 6-8). The deduction of Jesus in v.8b ("so then they are no longer two but one") leads into his final pronouncement ("what therefore God has joined together, let not man put asunder"). The import of this is "that marriage from its very nature and from the divine nature by which it is constituted is ideally indissoluble. It is not a contract of temporary convenience and not a union that may be dissolved at will".⁽³⁾ The implication is that the person who dissolves a union sanctioned by God stands under the judgement of God. Clearly, it is the sundering of the relationship that is condemned by Jesus (me chorizeto) and not simply the writing of a certificate of divorce.

3.3 In the view of some commentators, Jesus' appeal to the abiding validity and obligation of the creation ordinance amounts to an abrogation of the divorce tolerated under Moses.⁽⁴⁾ However, Cranfield rightly warns that a distinction has to be made between "that which sets forth the absolute will of God, and, those provisions which take account of men's actual sinfulness and are designed to limit and control its consequences".⁽⁵⁾ Jesus is not setting aside Deuteronomy 24:1

but condemning the Rabbinic interpretation of that text which suggested that God approved of divorce and that it did not come under his judgement.

3.4 In Mark's presentation, Jesus' condemnation of divorce is reinforced by his declaration to the disciples in private that the man who divorces his wife (apologues, referring to the actual dismissal) and marries another "commits adultery against her" (v.11). This goes beyond the teaching of the Old Testament and the Rabbis by suggesting that a man can commit adultery against his wife by marrying another woman and puts a man who divorces and remarries in breach of the seventh commandment (and thus of the Mosaic Covenant).⁽⁶⁾ The positive implication is that the husband is under an absolute obligation to God to be faithful in preserving a marriage relationship. Some interpreters have limited Jesus' condemnation here and in the parallel passages to the practice of divorcing a wife in order to marry another.⁽⁷⁾ While this is a possible reading of the Greek, Mark presents this saying as the sequel of an absolute denunciation of divorce by Jesus.

3.5 Only Mark's account records the saying about the wife divorcing her husband and marrying another (v.12). The form of the text found in the RSV presupposes that the wife had the ability to divorce her husband, which was not recognised by Jewish law, but was certainly possible in Roman law. This could mean that Jesus was looking beyond the customs of his own people or it could be taken as an adaptation of Jesus' teaching to the later situation of Gentile churches. A variant reading accepted by some commentators envisages a wife departing from her husband without divorce and marrying another (a possible allusion to the action of Herodias). Whatever the original reading, Jesus condemns the infidelity of the wife in similar terms to that of the husband, thus putting women on an equal footing with men with regard to the obligation to maintain a marriage relationship.

Luke 16:16-18

3.6 The only saying of Jesus about divorce recorded in Luke's Gospel occurs in a context that has similarities to the teaching of Matthew 5. Jesus declares that the period of the Law and the Prophets has given way to the proclamation of the Kingdom of God (Luke 16:16/Matthew 11:12), which is the import of Matthew 4:23-5:12. However, this does not mean that the Law has been abrogated (Luke 16:17/Matthew 5:17ff.). The single statement about divorce in this context and the more extensive teaching of Matthew 5:21ff. suggest that "it is in the demands of the Kingdom, not in its own continued existence, that the Law is validated".⁽⁸⁾

3.7 The first part of the saying in Luke 16:18 ("every one who divorces his wife and marries another commits adultery") is similar to Mark 10:11. Without the broader context of Jesus' teaching in Mark 10:2-9/Matthew 19:3-9, such a statement appears to set aside the provision of Deuteronomy 24 by declaring that all remarriage after divorce is tantamount to committing adultery against the original partner. However, it must be observed that the function of this verse in Luke 16 is not to give a comprehensive statement of Jesus' teaching on the subject but to exemplify his prophetic reinterpretation of the Law for the messianic community.

3.8 The second part of the saying ("he who marries a woman divorced from her husband commits adultery") parallels Matthew 5:32b. Jesus apparently regards the first marriage as continuing in God's eyes, since the second husband of a divorced woman is declared to be committing adultery. This would suggest that in God's eyes the original marriage bond has not been broken, even though a certificate of divorce has been obtained. This issue will be examined more carefully below.

Matthew 5:31-32

3.9 As indicated above, the first statement about divorce in Matthew's Gospel occurs in the context of Jesus' proclamation of the imminence of the Kingdom of God (4:23 - 5:12) and his teaching about the role of the Law in the messianic era (5:17-21). In the six antitheses that follow we have what might be called "a messianic intensification" of the Law by Jesus, establishing "the true righteousness which belongs to the Kingdom".⁽⁹⁾ One of the ways Jesus expects his disciples to exceed "the righteousness of the Scribes and the Pharisees" (5:20) is in the honouring of the marriage commitment. Although it may be valid to assume that Jesus is alluding to Deuteronomy 24:1ff. In some sense in v.31, the allusion is so vague that it would be more accurate to suggest that he is quoting "the unjustifiably lax interpretation put upon Moses by many of the Pharisees of his day".⁽¹⁰⁾ Jesus here does not abrogate the Mosaic provision but points to the moral consequences of a lax and distorted interpretation of Moses.

3.10 Matthew 5:32 does not include the words "and marries another" which are found in Luke 16:18 and Mark 10:11 (cf. Matthew 19:9). This abbreviation makes the antithetical parallelism with v.31 more pronounced and puts the emphasis on Jesus' condemnation of divorce per se, as in the public teaching segment of the account in Mark (10:2-9). Jesus does not say that remarriage will make the divorced wife an adulteress in Matthew 5:32, but that divorce will. It is possible that the strange use of the passive verb here (literally "makes her to suffer adultery") could refer to the placing of a divorced woman in a position where she virtually must remarry and so commit adultery against her first husband. However, remarriage was not the only option for a divorced woman in Jewish society.⁽¹¹⁾ It may be that the act of divorce caused the wife to be stigmatised as an adulteress in terms of the strictest interpretation of Deuteronomy 24:1.⁽¹²⁾ No one in our own day would automatically assume that a woman repudiated by her husband must be guilty of "some indecency" nor that she must remarry and thus commit adultery against her first husband. It must thus be clearly seen that in our own culture the application of the words "makes her to suffer adultery" is extraordinarily difficult. Those who have been divorced by their partners cannot be labelled adulterers or adulteresses. However, the fundamental purpose of the passage is clear and it still functions as a clear condemnation of husbands who divorce their wives "except on the grounds of unchastity".

3.11 The exceptive clauses in Matthew 5:32 and 19:9 are sometimes dismissed as an addition to the unambiguous teaching of Jesus, based on the practice of the community in which this Gospel was composed.⁽¹³⁾ However, it is not necessary to assume that this is a piece of later Christian legislation. Since a man was not just allowed, but was bound by current interpretation of the Law in New Testament times to divorce his wife when fornication before marriage was

discovered or adultery detected, this fact may have been taken for granted, without statement by the other Gospels, when they recorded the total prohibition of divorce. Matthew's clause may be making the matter explicit: "divorce is denied, except in the case of unchastity – which case in fact requires it, since unchastity destroys the unity between man and wife, the creation of which was God's design in instituting marriage".⁽¹⁴⁾ The underlying issue here, however, is whether or not to give equal weight to all the Gospel texts on this subject since they come to us as part of the canon of the New Testament Scripture. To dismiss the exceptive clauses as an editorial gloss seems a violent solution to the problem. Further discussions of these clauses will be undertaken below. Here it may simply be noted in conclusion that the emphasis in 5:31-32 is not on the exception but, as in other texts, on the prohibition of divorce for any other cause.

Matthew 19:1-9

3.12 This passage is clearly similar to Mark 10:1-12, though with important differences in terms of order and language. The addition of the words "for any cause" (Matthew 19:3), for instance, probably brings the question more strictly into the realm of the debate between the rabbinic schools dominated by Hillel and Shammai (see paragraph 2.13(iv) above). In Mark, Jesus asks what Moses commanded in the matter and they responded with the permission of Deuteronomy 24:1. In Matthew, Jesus proceeds to ask whether they have understood the significance of Genesis 1:27 and 2:24 (which was probably the intention behind his question in Mark 10:3). Jesus' deduction from these texts (v.6 "so they are no longer two but one flesh") leads on to the conclusion, "what God has joined together let not man put asunder".

3.13 The most profound issue to be resolved in both passages is Jesus' view of marriage. It hardly seems adequate to conclude from the use of the verb "joined together" (v.6) that "the beginning and the continuance of the relationship is completely dependent upon the initial and the continued consent of the two partners".⁽¹⁵⁾ Clearly sexual union is at the heart of the one-flesh relationship described in Genesis 2:24 – "the two who remain two as creatures of God become one body, i.e., belong to one another in love".⁽¹⁶⁾ The idea of leaving father and mother and cleaving to one's spouse suggests that, once a man and woman have entered into this unique commitment, a one-flesh union is created which takes precedence even over the natural flesh-and-blood relationship that exists with parents by virtue of birth. In other words, the language of this verse suggests a relationship of kinship between marriage partners. Such a relationship, once established, would not simply depend for its continuance either on sexual intercourse or on the ongoing consent of both partners, just as the ties of kinship cannot be broken simply by one party rejecting the other.

3.14 In Matthew's account, the Pharisees appeal to Deuteronomy to qualify Genesis (v.7), whereas in Mark, Jesus appeals to Genesis to qualify their appeal to Deuteronomy. Jesus' response in Matthew 19:8 ("for your hardness of heart Moses allowed you to divorce your wives") is similar to Mark 10:5. However, the additional words ("but from the beginning it was not so") have the effect of emphasising again that God's intent at creation is more fundamental and determinative than the later provision of Deuteronomy. This rabbinic method of argument ("the more original the weightier") means that the creation ordinance outweighs but does not necessarily annul the later permission.⁽¹⁷⁾

3.15 The saying about divorce, remarriage and adultery is located by Mark "in the house", in response to further inquiry by the disciples. However, in Matthew the saying appears to be addressed openly to the Pharisees (v.9), thus assuming the character of "a criticism of their practice rather than, as in Mark, the declaration of a rule of conduct".⁽¹⁸⁾ The concern in Matthew 5:32 to keep the woman and a second man from committing adultery changes to a concern to keep the first husband from committing adultery with a second marriage in 19:9.

3.16 B. W. Powers takes issue with the traditional interpretation of the exceptive clause in Matthew 19:9 that Jesus is forbidding divorce except on the ground of adultery. Firstly, he notes that the more general word *porneia* here and in 5:32 functions as virtually an equivalent of the Hebrew term "evath dabha" ("some indecency") in Deuteronomy 24:1.⁽¹⁹⁾ We must certainly allow that the Greek word includes a wider range of sexual sins than adultery, including homosexuality, incest and paedophilia. The real problem with the traditional view in Powers' opinion is that it makes Jesus appear to contradict his total and unqualified prohibition in 19:6 and makes one sin (adultery) prevent something else (divorce and remarriage) from being sinful. In response it must be said that unchastity is singled out because of the transgression of the one-flesh relationship which it brings by its very nature. Jesus is not allowing a chink in "the wall around marriage": sexual relationships with another party outside a marriage transgress the one-flesh relationship of marriage by creating a body union with the other party. A passage like 1 Corinthians 6:15-19 would suggest that this is so because sexual union "engages and expresses the whole personality in such a way as to constitute a unique mode of self-disclosure and self-commitment".⁽²⁰⁾ Adultery represents a decisive repudiation of the marriage relationship by giving the body which belongs exclusively to one's spouse (1 Corinthians 7:3-4) to another. As indicated in paragraph 2.11, the Bible envisages that in such a case repentance on the part of the offending party and forgiveness by the other partner in the marriage can lead to a full restoration of the relationship. However, such acts of unfaithfulness leave inevitable scars. Polygamy differs from sexual relationships outside of the marriage covenant between a man and a woman because it does not involve the abandonment of one relationship in favour of another (see 2.6 above).

3.17 In short, Jesus' appeal to Genesis 1-2, over against Deuteronomy 24, indicates that God's intention in creation outweighs rather than annuls the ordinance of Moses. Jesus would appear to be alluding to Deuteronomy 24 when he limits the permission to divorce and remarry to the situation where marital infidelity of some kind has offended against the one-flesh relationship. In the Deuteronomic permission, which Jesus does not abrogate, the remarriage of divorced persons under certain circumstances is clearly recognised and allowed (see 2.13(v)). On the other hand, the person who divorces his or her spouse on grounds other than sexual infidelity and remarries is guilty of adultery in Jesus' view. Divorce as recognised by the State is not necessarily the termination of marriage in God's eyes. However, the remarriage of one partner under such circumstances clearly frees the other partner to remarry.

3.18 G. B. Caird notes that it "only in the Kingdom where there is a cure for hardness of heart, that the ideal becomes practicable".⁽²¹⁾ The prophets foretold that the End Time would be characterised by the removal of hardness of heart and

the gift of the Holy Spirit (e.g. Ezekiel 36:26-27). In such a context the provision of Deuteronomy should not be required, since the sons and daughters of the Kingdom will delight to do the Father's will with regard to marriage. However, the New Testament makes it clear that Christians are really caught in the overlap between the present evil age and the age of the Kingdom of God. As those who have the Spirit of God we delight to do the will of God but find the power of the flesh continually provoking us to disobedience (e.g. Romans 7:14-25). We must realistically expect the marriages of Christians to fail also because of sin. The apostle Paul gives us some indication of how the teaching of Jesus is to be applied in such cases.

1 Corinthians 7:10-16

3.19 Paul clearly envisages the possibility of Christian marriages failing. He bases his first word on the subject firmly on the teaching of Jesus (v.10): "to the married I give charge, not I but the Lord, that the wife should not separate from her husband". Using the same verb "to separate" (chorizein) as in Mark 10:9/Matthew 19:6, he counsels wives not to leave their husbands, but the next verse recognises that there may well be occasions when this is expedient ("but if she does, let her remain single or else be reconciled to her husband"). The apostle does not specify the sort of things that might justify such a drastic action but urges the wife in such a case to remain "single" (literally "unmarried", agamos), presumably to bear witness to Jesus' teaching about the Creator's original intention with regard to marriage and in the hope of eventual reconciliation. Paul then concludes that a husband similarly should not "leave" or "part from" his wife. The RSV inappropriately translates *aphienai* here and in verses 12-13 "to divorce" but it is clear from the latter that the alternative is "to live with" and thus the verb *aphievai* should be understood to refer to leaving the spouse but not necessarily to formal divorce.

3.20 It has been argued that the divorced should be included in the permission to "the unmarried" (agamoí) to marry "if they cannot exercise self control" (vv. 8-9).^[22] However, Paul's strong words to those who are separated to remain "unmarried" (v. 11) apparently refers to a special case. Consideration will be given in our conclusions to the situation where one partner stands consistently in the way of reconciliation.

3.21 The apostle then turns to the problem of a marriage in which one partner has become a Christian but the other remains unconverted (vv. 12-16). Paul gives his own judgement on a situation clearly not covered in the teaching of Jesus. In a mixed marriage, the Christian partner is not to take the initiative in leaving. There is no need to withdraw from the relationship because it is thought to be displeasing to God: the Christian has the effect of sanctifying the relationship and the other partner in it (v.14). However, if the unbeliever chooses to separate (chorizein as in v.10), the believer is to let that sundering of the relationship take place (v.15). Where there is no commitment to Christ, a commitment to Christ's teaching on marriage cannot be expected.

3.22 Clearly, the Christian spouse should hold the marriage together as long as possible, but the Christian is "not bound" (v.15, literally "not enslaved") in such a situation. There are two significant opinions about the meaning of this phrase.

- (a) On the one hand, it is argued that the expression refers simply to separation from bed and board, but not from the marriage bond itself. If the latter were in view then the normal term to bind (in marriage), *deo*, would have been used. Further, to suppose that 'is not bound' (*ou dedoulotai*) has reference to the dissolution of the marriage bond would, it is suggested commit Paul to a double standard of ethics. He would be excluding any dissolution in the case of believers but permitting it when an unbeliever is involved. Considering the place given to the teaching of Jesus in verses 10-11 it is argued that the apostle gives no grounds for such an exception to Jesus' view of marriage. How could such a wilful desertion be compared with unchastity as a means of transgressing the one-flesh relationship, unless unchastity or remarriage on the part of the unbelieving partner was assumed as the inevitable consequence? In its context, verse 15 could simply mean that the believer is not bound to strive for reconciliation, as might be thought necessary from verse 11.
- (b) On the other hand, there are arguments in favour of the view that if freedom from obligations to bed and board is all that is in mind (i.e., separation but not freedom to remarry since there is no dissolution) then Paul might be expected to say the same thing as in verse 11. But the language of verse 15 is much stronger ("let him/her depart") and suggests something more, that is, freedom from the bond of marriage. Further, although *deo* is the normal term to describe the bond of marriage (cf. 1 Cor. 7:27, 39, Rom. 7:2) the word used in verse 15 (*douloo*) is no weaker. If anything it is a stronger term, so that the negative *ou dedoulotai* (a perfect tense contemplating a condition resulting from a past action) means "is not bound" (i.e., in marriage). Perhaps this particular verb has been chosen to show that the believer, because of the actions of one outside Christ's lordship, is no longer enslaved – the verb used is akin to that of *doulos*, "a slave" – to Christ's word (cf. V.22). Finally, Paul is not setting up a dual standard of ethics if one bears in mind the impossibility of bringing Christian considerations and motives to bear upon the unbeliever who has abandoned the marriage. There are limited applications of this latter interpretation –
 - (i) the apostle is dealing with mixed marriages and not with those between Christians, and
 - (ii) the wilful separation on the part of the unbeliever is the significant factor in this situation. The Christian must not take any initiative; nor must he/she make life together so unbearable for the unbeliever that the latter will be induced or compelled to depart.^[23]

3.23 If it is true, as we have argued in paragraph 3.16, that *porneia* in the Matthean exceptions is mentioned because it amounts to a decisive repudiation of the marriage relationship, it may be argued that wilful separation in 1 Corinthians 7:15 has a similar intention, even though sexual union with another person is not in view at the time of separation. Only time will reveal the decisiveness of that repudiation and so the abandoned spouse should not be precipitous in remarriage. Notwithstanding the argument in paragraph 3.13 about the ties of kinship, it is clear that continuation of one party in an

adulterous relationship effectively nullifies the original relationship. It may be argued that separation over an extended period of time, where the intention of one party is repudiation of the marriage relationship, has the same effect.

4. Synthesis and Application of Biblical Evidence

4.1 In this concluding section of the report, the teaching of the various passages in the New Testament on this subject is drawn together and specific applications of the teaching to our contemporary situation are made.

4.2 It is important to notice that each of the Gospel passages concerned with divorce and remarriage is in the context of criticism by Jesus of contemporary interpretations of the law of Moses. In Matthew 5 and Luke 16, Jesus' teaching is associated with the declaration that the era of the law and the prophets has given way to the era in which the gospel of the kingdom of God is preached. Jesus thus appears as a re-interpreter of the Law for the Christian community.

4.3 However, Jesus is no abrogator of the Law. In Mark 10 and Matthew 19, he reminds his audience of the original will of God with regard to marriage revealed in Genesis 2:24, and commands "what therefore God has joined together, let not man put asunder". Thus, in the face of any attempt to justify or excuse human failure to maintain the bond of marriage Jesus warns "whoever divorces his wife and marries another commits adultery against her" (Mark 10:11 and Luke 16:18).

4.4 This unqualified condemnation of divorce and remarriage suggests that a second marriage following the repudiation of a first marriage is nothing less than an act of adultery. Such language in a Jewish context makes the abandonment of the marriage relationship analogous to a breach of the covenant between God and Israel since the commandment against adultery is at the heart of the Ten Commandments. Jesus speaks regularly in such absolute or "black-and-white" terms to indicate the sort of righteousness that God requires from those who are truly the children of God (Matthew 5:20ff.).

4.5 However, the exceptive clauses in Matthew 5:32 and 19:9 indicate that the absolute prohibition against divorce ("what God has joined together let not man put asunder") must be qualified. When the wife has acted decisively to repudiate a marriage by entering into some other sexual relationship the husband is free to divorce his wife and to remarry. Jesus does not command husbands to divorce their wives in such a context and the illustration of Hosea and Gomer in the Old Testament would urge husbands to continue to reflect the forgiveness of God and seek reconciliation.

4.6 Since it was not possible for wives to divorce their husbands in the Palestine of Jesus' day, his teaching puts the emphasis on the responsibility of the man to maintain the marriage relationship at all costs. Mark 10:12 applies the same teaching to the context where women may take the initiative in divorce.

4.7 Paul's first word on the subject in 1 Corinthians 7:10-11 clearly reflects the absolute prohibition of Jesus with respect to the dissolution of a marriage. However, writing to a Gentile Christian context, Paul emphasises first the responsibility of wives not to separate from their husbands. Even if such a separation occurs for a justifiable reason (not specified by Paul), such women are to remain "unmarried" or "single" and to seek reconciliation. Paul then reflects the absolute prohibition of Jesus more precisely with respect to husbands: "the husband should not leave his wife".

4.8 Paul's second word on the subject refers to a situation where a Christian is married to an unbeliever who desires to separate for reasons that are not specified. The Christian is to let the unbelieving partner separate in this case and is "not bound" (1 Corinthians 7:15). The majority of the Doctrine Commission, following a long history of interpretation, believes that this permission means "not bound" to the prohibition of Christ about the dissolution of a marriage and therefore free to remarry.

4.9 Paul is clearly aware of the absolute nature of Jesus' teaching on the subject of divorce and remarriage. His concession does not detract from that teaching because it is dealing with a situation in which someone who may be committed to making the relationship work at all costs has the initiative taken from him or her.

4.10 Both Jesus and Paul emphasise that Christians are to take every step to sustain and maintain a marriage. However, both also allow that there will be situations where the normal act of separation or divorce may be necessary.

4.11 It may be concluded from the New Testament that it is God's will that the healing of broken relationships through forgiveness and reconciliation should be the Christian's priority in all situations and especially with regard to marriage and family life. However, divorce and remarriage for a Christian is permitted where the other partner has decisively repudiated the original relationship by:

- (a) Sexual relationship with another person; and
- (b) Abandonment of the marriage relationship by separation.

4.12 In 1 Corinthians 7:11 Paul recognises that the Christian may separate from his or her spouse (though he urges that person to remain single or else be reconciled). However, this separation is distinguished from that described in v.15 because it is a separation designed to promote reconciliation rather than a separation designed to end the relationship. We must consider the sort of grounds in our situation today which may make such a separation legitimate. These would include:

- (a) Sexual infidelity.
- (b) Mental or physical cruelty.
- (c) Religious persecution.

4.13 Although it is true that Paul urges the separated partner to remain single in such a case, we must ask whether this command is to be understood in absolute terms. The purpose of Paul's exhortation is that opportunity for reconciliation be maintained. When this fails, either because the other partner refuses in the long term to take steps leading to reconciliation, or because actions are taken that make reconciliation impossible, the believer is not bound to remain single, according to

the principle of 7:15. In such a case the relationship has been abandoned by one who is, or is acting as, an unbeliever. The test for "fault" is not so much past actions as a present unwillingness to be reconciled.

4.14 In paragraph 1.3, the Commission listed the possible approaches to the problem of divorce and the remarriage of divorced persons.

- (a) No divorce.
- (b) No remarriage after divorce.
- (c) Remarriage by the innocent party after divorce on the ground of adultery.
- (d) Remarriage by the innocent party after divorce on the grounds of adultery or desertion.
- (e) Remarriage after irretrievable breakdown of marriage demonstrated by the fact that reconciliation is impossible, but any party standing in the way of reconciliation ought not to be so married.
- (f) Remarriage on the grounds of irretrievable breakdown of marriage without fault being considered as relevant.

The Commission believes that options (a), (b) and (c) are more strict than Scripture allows, although it appreciates the concerns of those who adopt such views in order to safeguard marriage. The Commission regards the last option, (f), as being more liberal than the Scriptures allow. In our view the concept of fault cannot be abandoned, although emphasis needs to be laid on the reconciliation of the parties.

4.15 In considering the relative merits of (d) and (e) in paragraph 4.14 the Commission concluded that (d) is a true interpretation of Scripture, but that it is capable of being understood in too rigid a way. If it is read in terms of (e), the emphasis will fall on reconciliation. In this case the test for fault will be an unwillingness to be reconciled. It remains permissible for a partner to leave an impossible situation, but not permissible to remarry until the situation is resolved with finality from the other side. Options (d) and (e) are not to be seen as alternatives. The latter views the Biblical teaching on divorce and remarriage in the light of the gospel imperative to express and seek reconciliation. This gives some flexibility in the pastoral context, and paves the way for counselling which is not directed by legal motives.

4.16 If the reasoning of the Commission is correct, Anglican rites should not be denied to those who seek remarriage if they do so on grounds that are consistent with Scripture. "The Form of Solemnisation of Matrimony" in the Book of Common Prayer does not envisage the possibility of divorce and remarriage because it is setting forth the biblical ideal. The use of an alternative service for the remarriage of divorced persons would inevitably make invidious distinctions between people.

For and on behalf of the Diocesan Doctrine Commission

BISHOP E. D. CAMERON (Chairman)

THE REV. RALPH BOWLES (Secretary)

25 July 1984

Addendum

While not wishing to impugn in any way the integrity either of the biblical scholarship or of the exegesis of my fellow members of the Doctrine Commission, I wish to point out that, while the biblical evidence is clear that in certain cases a separation between two parties to a marriage is permissible for a Christian, it is not equally clear whether remarriage of either party is permissible. Such a conclusion is one possible exegesis of some of the New Testament passages, but not either sole, certain or compelling. It remains therefore only an unproved assumption, and this is a dangerous basis for any argument, particularly when there are strong and unambiguous statements on the other side.

The difference between this possible assumption and the clear permissive statements as to the possibility of the remarriage of widows is very remarkable (1 Corinthians 7:39). Would there not be equally plain speaking on the matter? In fairness therefore both to the evidence of the New Testament scriptures, and to those who hold other views as to their interpretation, the tentative nature of the conclusion should be much more strongly expressed. Otherwise, we may simply be expressing the spirit of our age.

THE REV. DR. R. A. COLE

25 July 1984

NOTES

1. These comments on Genesis 2:24 reflect certain arguments of Professor F. I. Anderson in a submission to the Doctrine Commission entitled "Some Notes on Marriage and Kinship."

2. W. L. Lane, *The Gospel of Mark* (London, 1974), p.354.

3. J. Murray, *Divorce* (New Jersey, 1961), p.29.

4. e.g., Lane, *op. cit.*, p.357.

5. C. E. B. Cranfield, *The Gospel According to St Mark* (Cambridge, 1963).

6. F. Hauck, *Theological Dictionary of the New Testament*, Vol. IV (Michigan, 1967), pp. 730-732

7. B. W. Powers, "Divorce and the Bible", *Interchange* No.23 (1978), p. 163.

8. R. Banks, *Jesus and the Law in the Synoptic Tradition* (Cambridge, 1975), p. 218.

9. K. Stendahl, *Peake's Commentary on the Bible* (ed. M. Black and H. H. Rowley, London, 1962), p. 679.

10. B. W. Powers, p. 157.
11. Ibid, p. 158 (cf. Lev. 22:13).
12. Ibid, p. 159, following R. C. H. Lenski.
13. e.g. E. Schweizer, *The Good News According to Matthew* (London, 1975), pp. 123-125.
14. D. Hill, *the Gospel of Matthew* (London, 1972), p. 125, cf. F. Hauck, p. 731f.
15. B. W. Powers, p.151. He denies that there is any evidence in the Bible for the idea of "a metaphysical marriage 'bond' which exists independent of the legal bond (so that it continues when the legal bond is severed), and also independent of the purposes of marriage or their fulfilment" (p.158).
16. D. Bonhoeffer, *Creation and Fall* (London, 1959), p. 61.
17. D. Hill, p.279
18. R. Banks, p. 153.
19. B. W. Powers, pp 158, 161 cf. R. Banks, p. 156f.
20. D. W. Bailey, *The Man-Woman Relation in Christian Thought* (1959), p.10
21. G. B. Caird, *The Gospel of St Luke* (Hammondsworth, 1963), p. 190.
22. B. W. Powers, "Paul's Teaching in 1 Corinthians on Sex and Marriage", *Interchange* No. 31 (1983), pp. 28-30.
23. The substance of the New Testament section of this paper was written by D. G. Peterson and appeared in *St Mark's Review* No. 115, 1983 in an earlier form. Other material was taken from the article by P. T. O'Brien "Divorce and Remarriage" in *Agenda for a Biblical Church*, Vol. 2 (ed. A. Nichols and J. W. Williams, Sydney 1981), pp. 181-3.