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Divorce and Malicious Desertion.

Divorce is one of the most pernicious and at the same time most prevalent evils of our day. With the exception of Russia our own country has the sorrowful distinction of leading the nations of the world in divorces per capita of population. This extreme disregard of the sanctity and indissolubility of wedlock, which like a deadly poison has already ruined thousands of homes and is threatening to undermine the very foundation of our Union, is slowly, but surely invading our congregations also, there to exercise its baneful influence. During the past decade divorces, almost unknown in our circles twenty years ago, are becoming more and more frequent and are increasing in number at an alarming rate. It is the duty of the pastors to warn against this evil and not to countenance any laxity with regard to divorce and remarriage of divorced people. For this purpose it will not be amiss to consider the principles laid down in Scripture by the Lord Himself, especially in the New Testament. We shall do so under the general head of "Divorce and Malicious Desertion."

I. "Is It Lawful for a Man to Put Away His Wife?"

That was the question put to Jesus by His inveterate enemies, the Pharisees, who were always looking for an opportunity to tempt Him, Mark 10, 2. The word ἀπολύειν means to let go; then, to dismiss from the house, repudiate, divorce. In this latter sense it is used in the New Testament only in the synoptic gospels. Paul uses χωρῖς εἶναι and ἀφίναι. Matthew adds the words "for every cause?" That was the double question put by the Pharisees to Jesus. Is it allowed at all to divorce one's wife, and if so, is divorce permissible for any cause? The Jews took for granted that divorce was divinely authorized. The only question that was being vehemently debated was the grounds for divorce. Ever since the first century before Christ two factions had arisen, taking two opposite views. Both factions based their opinions on Deut. 24, 1. We shall see that neither faction correctly interpreted this passage. The one faction, the school of Shammai (75—10 B. C.), stressing the phrase "because he hath found some uncleanness [wickedness] in her," held that divorce was permissible if the woman was guilty of adultery or some other gross breach of the laws and customs of the land. The other school, that of Hillel, a contemporary of Shammai, especially stressed the phrase "that she find no favor in his eyes" and "included every kind of impropriety, such as going about with loose hair, spinning in the street, familiarly talking with men, ill-treating her husband's parents in his presence, brawling, that is, 'speaking to her husband so loudly that the neighbors could hear her in the adjoining house' (Chethub, VII, 6), a general bad reputation, or the discovery of fraud before

marriage. On the other hand, the wife could insist on being divorced if her husband were a leper or affected with polypus or engaged in a disagreeable or dirty trade, such as that of a tanner or coppersmith. One of the cases in which divorce was obligatory was if either party had become heretical or ceased to profess Judaism." (Edersheim, *Sketches of Jewish Social Life*, pp. 157 f.) Scribes and Pharisees were rapidly inclining to the laxer views of Hillel and, like their modern representatives, the divorce lawyers, found and made many loopholes whereby they obtained for their clients divorces "for every cause."

How does Jesus answer the question?!) Sweeping away the cobwebs of human views and opinions and false interpretations, Christ reverts to the original will of God as stated clearly in the beginning, at the institution of matrimony. "And He answered and said unto them, Have ye not read that He which made them at the beginning made them male and female and said, For this cause shall a man leave father and mother and shall cleave to his wife, and they twain shall be one flesh? Wherefore they are no more twain, but one flesh. What therefore God hath joined together let not man put asunder," Matt. 19, 4—6. That is His answer, clear, unequivocal, unmistakable. "What God hath joined together, let not man put asunder." This joining together was effected in a threefold manner. In the first place Christ says that at the very creation "He made them male and female," of different sex, "suited to each other, needing each other" (*Exp. Gr. Test.*), so that only in union with each other they could do what God had commanded man to do and what was impossible for man by himself and for woman by herself, to "be fruitful and multiply and replenish the earth," Gen. 1, 28. Yet for the accomplishment of this purpose God did not at once create a number of men and women, so that unrestricted cohabitation might be regarded as the will of God. Nor did He create one man and a number of women, as though polygamy had been in His mind. On the contrary, He at once clearly indicated His will that one man and one woman should be united for the purpose of perpetuating the human race. And He did this by creating them a man and a woman. In the mind and purpose of God one man and one woman should be united, joined together, in a monogamous union; and what God hath thus joined together let not man put asunder.

1) The very fact that Jesus does not refuse to answer this question, as on another occasion He refused to be made judge, Luke 12, 14, goes to show that questions of marriage and divorce are not merely legal matters, to be turned over by the Church to the civic officers. No, divorce involves moral questions, questions answered and forever settled in the Word of God. To this Word of God Christ appeals, and from this Word of God we must obtain our information on the vexing problems of divorce if we would see clearly in this matter and be prevented from taking a wrong course.

In the second place, Christ tells us that God did not leave man to infer the indissolubility of the marriage ordinance. He very clearly stated it as His will. Christ proceeds, v. 5: "And [God] said, For this cause shall a man leave father and mother and shall cleave to his wife."²) "For this cause," because I have made man and woman to be united in matrimony, a man "shall cleave to his wife," leaving even his father and mother. By marrying, the family relation established by God Himself shall, with the express permission of God, be severed by man, while another relation, another union, also established by God, shall be entered into, which is to be of a permanent, inseparable character. The man shall cleave to his wife (*προσκολλῶ*, glue together, cement, fasten, or join firmly). According to God's creative ordinance the man, by taking a wife, by his betrothal, is fastened firmly, joined inseparably, to the woman of his choice. If that entry into marriage has been in accordance with God's will, if no command of God prohibiting such a marriage has been transgressed, then God really has joined them, and then again the rule applies: "What God hath joined together let not man put asunder." Marriage in its very essence is a lifelong union.

In still another manner does God join husband and wife together in holy wedlock into a close and inseparable union. "And they twain shall be one flesh," Matt. 19, 5. Through carnal intercourse, sanctioned in marriage by the will and command of God, Gen. 1, 28; 1 Cor. 7, 2—5, husband and wife are joined together in a union uniquely intimate; "wherefore they are no more twain, but one flesh," Matt. 19, 6, *εἰς σάρκα μίαν*, unto one flesh, v. 5, or as Paul puts it, one body, *ἐν σῶμα*, 1 Cor. 6, 16a, so that the members of the one become the members of the other, 1 Cor. 6, 15, the wife being as the own body of the husband, Eph. 5, 28, so that a man loving his wife loves himself, v. 28, his own flesh, v. 30.³) Of course, their individual existence does

2) God spoke either through Adam, if we connect Gen. 2, 24 with v. 23, or through Moses, if we connect v. 24 with v. 25.

3) While rightful betrothal constitutes marriage, it does not make husband and wife one flesh. That is effected, as far as we know from Scripture, only by carnal intercourse, legitimate or illegitimate, 1 Cor. 6, 16. But illegitimate carnal intercourse, fornication, while it effects a union similar to that effected by legitimate carnal intercourse in wedlock, a union unto one flesh, a union therefore establishing the same kinship prohibitive of marriage within certain degrees, Lev. 18, 6 ff., does not effect marriage, since even lawful intercourse does not create marriage, but is one of its purposes; and since God has not joined the fornicator and the harlot together. They have been joined together by their own sinful lust in a union utterly displeasing to God, calling forth His temporal and eternal punishment. Fornication therefore constitutes no lifelong obligation to cleave together on the grounds that what God has joined man shall not put asunder.

not cease; they remain two indeed, "they twain," each with a body and soul of his or her own, each with his or her own responsibility before God, and still joined together, yoked together, in a mysterious manner made one in a union peculiarly unique.

According to Christ's authoritative interpretation of the records of the institution of holy matrimony, God has joined husband and wife together in an inseparable union, first, because according to His holy will one man and one woman should unite in holy wedlock, Matt. 19, 4; Gen. 1, 27. 28; 2, 18, wedlock being the normal state for both man and woman; secondly, because the creative ordinance brings out clearly that this union shall be inseparable, Matt. 19, 5a; Gen. 2, 24a; thirdly, because in wedlock, through carnal intercourse, they shall become one flesh, Matt. 19, 5b; Gen. 2, 24b. What God hath so joined together let not man put asunder. The putting asunder by man in any manner of what God has joined together is a presumptuous usurpation of an authority which God has reserved for Himself, a *crimen laesae maiestatis*.

The question naturally arises, If separation of marriage is an exclusive privilege of God, does God ever sever marriage, does He ever lift the yoke into which He has placed husband and wife, so that one or the other, or both, are released from the obligation to each other? Scripture very clearly answers also this question. We learn that there are three contingencies which either separate, or permit man to separate, what God joined together in wedlock. First, God Himself severs marriage through the death of either party. Secondly, the spouse guilty of fornication may be divorced by the innocent spouse. Thirdly, the spouse maliciously deserted is no longer under marital obligation to the deserter. In the first case, God Himself severs; in the second, the innocent party has the right to sever; in the third, the innocent suffers the severing of the marriage bond. We shall take up the three points in the order mentioned.

1. Death as a Separation of Marriage.

It would be idle to speculate on the possibilities or probabilities as far as severing marriage is concerned if man had remained sinless. Man has fallen, and ever since the fall of man, death separates husband and wife and severs the marriage bond. This is clearly stated Rom. 7, 2. 3: "For the woman which hath an husband is bound by the Law to her husband so long as he liveth; but if the husband be dead, she is loosed from the law of her husband. So, then, if, while her husband liveth, she be married to another man, she shall be called an adulteress; but if her husband be dead, she is free from that law, so that she is no adulteress, though she be married to another man"; and 1 Cor. 7, 39: "The wife is bound by the law as long as her husband liveth; but if her husband be dead, she is at liberty to be mar-

ried to whom she will; only in the Lord." The law which is annulled by the death of the husband is of course not that law which establishes through sexual intercourse a relation which is prohibitive of marriage within certain degrees of kinship. Cp. Lev. 18, 6; 1 Cor. 5, 1; 6, 16. The law which death sets aside is "the law of the husband," that law of Gen. 2, 24 which binds the woman to the husband while he lives and makes her an adulteress if, during the lifetime of her husband, she be married to another man.⁴) After the death of the husband she is, without violating in the least a law of God, free to marry any one not within the prohibited degrees, as the apostle expressly states 1 Cor. 7, 39.

The second marriage of widowers or widows has been regarded in some circles as disagreeing more or less with God's will. Already Athenagoras (ca. 150—200 A. D.) calls the second marriage a "respectable adultery," *εὐπρεπὴς μοιχεία*. Tertullian (160—220), in agreement with the views of the Montanists, objects to it for the same reason, also because of the disagreeable consequences often resulting from such a marriage and because it is in reality a striving against God's will; for if God would want the man to have a wife, He would not have taken his wife away. (!) The Council of Neo-Caesarea (314) required a time of repentance, which might be shortened by good behavior, and forbade the presbyter to attend the nuptials. The Council of Laodicea (ca. 340), while mitigating the former resolution, still required that for a brief time they be excluded from Communion. The *Ius Canonicum* of the Church of Rome approved of this viewpoint. While the Council of Trent does not mention the second marriage of laymen, the sentiment within the Church of Rome was ever unfavorable to the second marriage. According to Bellarmin they were to be denied the blessing of the Church at the wedding. Gerhard (*Loci*, XXVI, chap. 5, par. 193) quotes Bellarmin as stating in *De Cleric.* (chap. XXIV, par. 13) that repeated marriages are a surer sign of long-enduring and firmly inhering incontinence than even concubinage would be and that in selecting a bishop a double marriage on his part must be regarded as a greater offense than adultery and concubinage. The Greek Catholic Church deposes its priests if they marry for a second time. (Metrophanes Kritopolus, *Confession*, chap. 11.) Alfred Plummer, in the *Expositor's Bible* on 1 Tim. 3, 2, devotes an entire chapter to "The Apostolic Rule Respecting Second Marriage; Its Meaning and Present Obligation." He holds that indeed Paul "was opposed to the ordination of persons who had con-

4) We see here that the law addressed to the husband in Gen. 2, 24 is just as binding on the woman as in fact are all marriage laws although usually addressed to the man only. The Bible has no double standard in any respect. Woman as well as man and man as well as woman is under equal obligation under the Sixth Commandment not to commit adultery.

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tracted a second marriage," since "a second marriage, although perfectly lawful and in some cases advisable, was so far a sign of weakness; and a double family would in many cases be a serious hindrance to work. The Church could not afford to enlist any but its strongest men among its officers." "Is it not reasonable to suppose that, in selecting ministers for the Church, he would look for them in the class which had given proof of moral strength by remaining unmarried or by not marrying a second time?" However, Plummer comes to the conclusion that "there is nothing to show that St. Paul is giving rules which are to bind the Church for all time. . . . Nowadays a man is not considered less strong than his fellows because he has married a second time." We hold that there is not the slightest reason to impute to Paul or to Scripture the view that a second marriage is to be regarded as unbecoming a Christian, be he layman or pastor. Gerhard (*Loci*, XXVI, chap. 5, pars. 178 ff.) offers nine arguments to prove that not the slightest stigma attaches to second marriages. We shall mention only the chief arguments. The Old Testament permits it, Deut. 25, 5; Ezek. 44, 22; neither Christ nor the apostles forbid it or regard it as dishonorable. On the contrary, Paul sanctions and even advises it, Rom. 7, 1. 2; 1 Cor. 7, 8. 28. 39; 1 Tim. 5, 14. Forbidding marriage is a doctrine of devils, 1 Tim. 4, 1. 3. Scriptural examples and the testimony of many Church Fathers may be adduced in favor of it.

The time which ought to elapse between the two marriages depends on custom and circumstances. (Cp. Walther, *Pastorale*, 230 ff.)

(To be continued.)

THEO. LAETSCH.

Dispositionen über die zweite von der Synodalkonferenz
angenommene Evangelienreihe.

Vierundzwanzigster Sonntag nach Trinitatis.

Jo h. 10, 22—30.

Am letzten Sonntag vergegenwärtigten wir uns, wie sich der Unglaube so gar verschieden zeigt. Aber stets ist es Unglaube, und stets ist der Unglaube Torheit. Wohl hält sich der Unglaube für weise und erklärt das Christentum für Narrheit und Torheit. Und doch bleibt es wahr, was wir aus unserm Evangelium erkennen,

Denn Daß der Unglaube die größte Torheit ist.

1. er verhärtet sein Herz gegen das klare Zeugnis der Wahrheit;
2. er achtet sich selbst nicht wert des ewigen Lebens.