

Some Thoughts on Divorce

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Some twenty years ago, that wise and good man Gerald Vann wrote an article in *Blackfriars* about 'The Muddled Marriage'. It was concerned with the plight of those spouses whose unions are canonically irregular, and apparently without remedy; it contended that they deserve a love and a sympathy they do not usually get; and it suggested they should be told that they were not in a state of grievous sin or cut off from the life of the Church. Such assertions could hardly go unchallenged, and a lumbering attack, Roman in origin, appeared shortly afterwards. Indeed, rumour attributes to the incident the subsequent residence of Father Vann in the diocese of Hexham and Newcastle, whither he was sent, like some latter-day Ovid, to expiate his sins by the Black See.

Times have changed, and even Canon Law is not exempt. Ever more is being written on the matter of divorce and re-marriage. The bibliography at the end of this article (to which all references are made) shows that an up-to-date survey is available of how things stand in France, Germany and the United States; *New Blackfriars*, in June 1973, published several interesting articles to do with African attitudes in the matter; and the items by Harrington and O'Callaghan give useful accounts of scriptural and theological reflexion, with some further reading. Still more recent are the two works that provide the starting-point for this article.¹ The first is an essay on the theology of indissolubility, the second an account, by a former presiding judge of the marriage-tribunal in the archdiocese of New York, of his own pilgrimage towards a change of heart in the matter. The two books contain between them most of the themes to be encountered elsewhere in what is being written: I wish to use them as an occasion for some remarks on the point myself.

Doherty and Kelleher are concerned with Church practice in their own country. They submit that ever more Catholics are in the situation considered by Vann; and that even those whose present unions might be mended have to deal with canonical tribunals which are alien to what they regard as fairness at law, and which are incapable of dealing equitably and expeditiously with cases submitted to them. However, both authors also believe that amelioration of practice at the tribunals will not solve the real difficulties, which call for an ex-

¹Doherty, D. J. *Divorce and remarriage: resolving a Catholic dilemma*. Abbey Press, St. Meinrad, Indiana 47577. 1974. Kelleher, S. J. *Divorce and remarriage for Catholics?* Doubleday & Company, Inc. Garden City, New York. 1973.

amination of the history and theology of the indissolubility of marriage; and, like some but not all those who are writing on the topic, both argue for a change in Church teaching here.

Kelleher's book is the more attractive of the two. It is well written, and gives both a vivid account and an intelligently sympathetic evaluation of practices in the several tribunals the author has known. His own life as a priest has been largely spent in them. He joined the tribunal of his diocese in 1943, became a judge in 1954 and presiding judge in 1961. In 1964 his recommendations for greater equity and openness in marriage tribunals were unanimously accepted by the Canon Law Society of America. He was chairman of a committee then formed by that society to present proposals to the American bishops and, in 1966, was chairman of a national committee concerned with the whole matter of revising the Canon Law. The introduction by Rome in 1970 of modified (and simplified) rules of procedure for tribunals in America ('American Norms') must be due to him as much as to anyone. By that time, however, his own status had changed. From 1964, he had begun to express publicly his own deeper dissatisfaction with Church practice concerning the indissolubility of marriage. In 1968 he published an article in this sense in *America* and was dismissed from his judicial office (he is charitably obscure here, the blurb is not). Nothing daunted, he proposed in 1970 to the National Federation of Priests' Councils that canonical consideration be given to seeing whether matrimonial cases might be resolved by local tribunals, and theological consideration be given to the question of admitting to the Eucharist those in second marriages. The Federation unanimously accepted his proposal, and both the Canon Law Society of America and the Catholic Theological Society reported on the topics. The latter expressed its view that, while the Church must proclaim the indissolubility of marriage, there are second unions in which the parties cannot be asked either to separate or to abstain from marital relations; and that such people should not be excluded from the sacraments if, after appropriate consultation, reflection and prayer, they judge themselves worthy to receive them.²

Kelleher himself has gone further in this book than in his article. He states his sympathetic dissatisfaction with some solutions devised for resolving stubborn matrimonial cases—more of these later on. He admits that for almost a thousand years the Western Church has taught the indissolubility of a marriage consummated between two baptised persons, but he recommends that, once a marriage becomes 'irrevocably intolerable and existentially dead', each party has a right to divorce, to marry a second time, and to be accepted in his religious community—that is, for Catholics, to be fully welcomed at the Eucharist and to be at home in the Church. A man has a responsibility

²Unfortunately, I cannot state what the Canon Law Society reported, because Kelleher's text is here (172) disturbed by omission and transposition. However, as a prominent member of that Society has written in favour of more liberal practice (*ibid.*), we may presume that the report was favourable. I see that this conjecture is confirmed in Curran, who gives details (p. 591).

to seek guidance and counsel in so grave a matter, but the ultimate decision is his own.

The force of Kelleher's book lies, and is meant to lie, in the author's evaluation of his own experiences rather than in abstract theological reflexion on what the problem is and how it might be faced. Doherty's book offers reflexion of the sort, and (in its copious and useful footnotes) gives citations of and reference to recent writings and pronouncements in the matter. I must enter at once a protest at the predictable discourtesy by which the footnotes are not only relegated to the end of Doherty's book, but are not even given a running title there to guide the reader who wishes to consult them. I must enter a still stronger protest at the language, for want of a worse noun, in which his book has been composed—costive blocks of abstract nouns lubricated with journalese; broken-backed sentences; clauses and parentheses that go on for ever. I admit that every now and then we are rewarded, as when we are told that

'the experience of pastors and faithful alike provides a goldmine of theological insights yet to be tapped, articulated and solidified into a consensus' (114).

A very remarkable way of gold-mining. Elsewhere, we have an even more remarkable disclaimer:

'Not in question here are casual non-concerned sexcapades which, so to speak, phallicize males and turn females into sexual turnstiles' (139).

So *that* is what Bow Bells meant when they rang out 'Turn again, Whittington' to weary Dick and his Pussy! Unfortunately, most of the lapses are not as funny, and (as always) poverty and vulgarity in style are symptoms of deeper disorders. Whatever our views on religious freedom and re-marriage, we are not pleased to be told that, by one statement of Vatican II on the former:

'the Church's image was [moreover] considerably enhanced from the standpoints of solid theology and public relations. A new teaching on indissolubility would do the same' (84).

However, Doherty not only gives a useful array of references, he offers patterns of argument that are found elsewhere, and his book would be a helpful introduction to the present position of the debate over indissolubility. (He also discusses polygamy, but I think we had better adjust ourselves to indissolubility first). He starts from the notion of 'public consensus' adapted from American politics to theological use by John Courtney Murray (who, like the owl of Minerva, seems to have preferred sunset flights). In it, he sees elements of stability and change that can illustrate what is happening in the Church today. The inherited structure of law and its power of accommodation; the changes brought about in society by physical and economic develop-

ment; the effect of work in one discipline upon those engaged in others—all these are germane to the evolution of a new sense throughout the Church of marriage and of its obligations.

The pattern of this evolution is explained by Doherty in the chapters that follow. After a necessarily rather breathless chapter on the history of matrimonial law (Nautin would be one good corrective), he suggests that the norms for regarding a marriage as *ratum et consummatum* (sacramental and consummated) are implausibly mechanical: the former is determined without regard for the baptised party's subsequent religious behaviour; and the latter is achieved by a single act of penetration and insemination, with no further investigation of relations between the spouses. Doherty offers a series of matrimonial *casus* to illustrate these points, and up-to-date information about curial practice in dissolving consummated but not sacramental marriages. The Church, he argues, must take account of the personal growth and development of those who are married, and 'consummation' is not something achieved once for all on one occasion (Kelleher writes in the same sense, and gives examples drawn from his legal experience). The revaluation of marriage in recent theology calls for a re-examination of the concept of indissolubility. We cannot defend it by an appeal to consummation as such, for the Church does dissolve consummated marriages that are not sacramental; nor can we defend it by an appeal to the sacrament as such, for sacramental non-consummated marriages are, so it has long been taught, dissolved by the entrance of the parties into the religious life.³ Why is the conjunction of the two qualities supposed to bestow a signifying function, so that the consummated, sacramental marriage represents Christ's union with the Church in a wholly new way? and why does this wholly new way preclude, as the other marriages do not, any dissolution of the bond?

The recent acknowledgement by the Roman Church of the values present in other Christian communions must, Doherty contends, be extended to an examination of their attitudes to divorce. The Orthodox Church, for instance, denies its competence to dissolve a marriage, but—acting by that 'economy' with which mercy is shewn to frailty—it can acknowledge that a marriage no longer exists, and admit another union. He adds a good point: the curially stated prerequisites for reception of the Eucharist by those who are not Roman Catholics do not include enquiry into their marital status; the denial of the Eucharist to remarried Catholics becomes all the more isolated and arbitrary. His general conclusion is that, when we have made every reservation about bad faith and abuse, we must acknowledge that marriages can die; and that their death does not prohibit a later union and its blessing by the Church.

What is one to say about all this? On the threshold of any discus-

³Or so everyone always says. When did it happen last? Presumably in an age when child-marriage was common—one can hardly imagine a couple nowadays appearing in religious habits at the wedding-breakfast and announcing their forthcoming dissolution. I detect a trace of the idea in R. Peyrefitte's amusing *The Prince's Person*: unfortunately, like so many other works of apologetics, it gives no references.

sion of divorce come the prohibitions of it by Christ. Doherty says little of them, but Kelleher holds that they do state an unqualified prohibition, grounded on the nature of man and woman as created by God. But, he goes on, the Church has—beginning with Paul, if not with Matthew—already made a number of morally acceptable exceptions to the ideal and imperative of Christ, and should now multiply them (48). Christ's prohibition is an ideal that all married couples should try to attain (*ibid.*), but the ideal or general imperatives of Christ in the Sermon on the Mount, which include a prohibition of divorce, have been taken by the Church to admit of abundant exceptions (47). (He pleasingly remarks that, in the very tribunal upholding Christ's words on marriage, his words against oath-taking are persistently disregarded.) My reservations are of a different sort, and touch the belief—shared, it seems, by all parties to the debate—that Christ's commands are *ideals*: ideals to be aimed at, and so engendering absolute obligations; or ideals that go beyond what in some cases we can achieve, and so admitting exceptions; but in each case, ideals. Are they? Consider Christ's words in the Sermon on the Mount against retaliation, against divorce, against oath-taking. In what sense can we call them 'ideals'? Do we mean that, if all of us were all that we should be, we should all keep them? If that is what we mean, we are not meaning very much. On the hypothesis envisaged there would be no need for the reliefs that infractions of Christ's words now offer us, for there would be no aggression, no intolerable marriages and no mendacity. Are they then 'ideals' in the sense that we should keep them although the other party does not? I do not believe anything of the sort myself and think it would be outrageous to make such an unqualified claim. There are those who need to be discouraged from violence by the certain prospect of an immediate and painful sanction, just as there are those who, from some weakness of mind, may be held to the truth by the mummery of oath-taking; and there are marriages which have painfully died and need to be decently buried. The only sense I can attach to 'ideal' here is that our imperfect institutions and ways of life ought to reflect the values shewn us by Christ in his words and in his life, even though his words do not do justice to what an abundance of bitter experience shews to be needed in our imperfection. Thus, retaliation may be needed; but it also needs to be channelled into law or conducted with reference to law if what is of value in it is to be preserved.⁴ Honesty in speech may need to be reinforced by the swearing of an oath; but the intrinsic value of honesty needs no eking out with superstition. And the death of a marriage may need to be acknowledged; but it is a death, with the agony and parting of death, not an exercise in caprice or convenience. Such a use of 'ideal'

⁴Euripides provides us with a good example, not only of retaliation, but of the facing of religious ideals, in his *Electra* and his *Orestes*. He inherited a story in which Apollo commanded Electra and Orestes to kill their mother, and in which he, being a God, was obeyed. Like his predecessors, Euripides followed the story but, unlike them, he refused to acquiesce in its morality ('Apollo was wise, but did not speak wisely'). The tension in the two plays between an account of a tradition and a revaluation of it deserves our attention here and now.

I would admit, as long as we do not pretend thereby to legislate universally for how much retaliation, how much oath-taking, or how much divorce there should be. Universality here makes no sense. One needs to be very good indeed to be able to take the Sermon on the Mount both seriously and persistently. Most of us are not very good, and become no better for botched attempts at getting above our station. Some, at times, would be more charitable for having struck back, some more honest for having God's name dragged into their assertions, and some better spouses for having acquired new ones.⁵

Why has the Church held to the words on divorce, but not to those on oath-taking or retaliation? Well, it has not held to them. Whatever one makes of the history of canon law here, the present position of the Roman Church is quite distinct from the teaching of Christ. For Christ, the reason for excluding divorce goes back to the creation; for the Church, the overwhelming majority of marriages in the world have been and are open to divorce, since they are not sacramental—and (a point not noticed) that majority includes the marriages of those to whom Christ first spoke. True enough, the Roman practice demands that the dissolution be made 'in favour of the faith', but both Kelleher and Doherty shew by anecdote how little that clause can mean in practice. Again, it is true that Paul in First Corinthians has been commonly taken as teaching something of the sort; but (again, a point unnoticed) Paul's example would be more consistently followed, not by a forcing of all cases of dissolution into a pattern of exception supposed to be Pauline, but by simply doing what he claimed to be doing—making up some new rules to meet a new situation. Earlier discipline in the Western Church shewed a variety and an acknowledgment of life's limitations that later did not. Life, however, insisted upon being limited, and later discipline was obliged, not only to 'extend' Paul's teaching, but to invent a technique of proving that an apparent marriage had never been a marriage at all and so was in no need of dissolution. (The technique has, of course, the side-effect of providing inductive grounds for doubting the validity of yet other marriages, so far unimpugned). It is easy to make game of absurdities here, and easy to point to paradoxes (one of them is that papal power seems wider over the unbaptized than over the baptized). It is just as easy to reply that the technique was inspired by a compassion for those in distress. It is harder, but more profitable, to face the dissolution of a marriage that is admitted to be both sacramental and consummated.

The question returns: why has the Church, for all these devisings, taken Christ's prohibition of divorce with a seriousness with which she has not treated his prohibitions of retaliation and of oaths? I suppose one reason is that the Catholic tradition in Christianity is at home with

⁵I offer to the judgment of biblical scholars a simple emendation in this sense of Matthew 5:39 ('If someone strikes you on the right cheek, turn to him the other as well'). 'Turn to him the other as well' is *'strepson autói kai tén allén'*. If we read 'autou' for 'autói', and give 'strepson' another of its senses, our verse becomes: 'if someone strikes you on the right cheek, twist his other as well'. As Bentley wrote of one of his emendations to Horace: 'the manuscripts discovered so far are against this reading; more must be brought to light'.

violence and ritual in a way that it is not at home with sex; the first two it seeks to conscript for its own purposes, but the third it seeks to confine. Now the vocabulary describing sexual behaviour and appraising its morality can, if we are careful, lend itself to such confinement. We can see in it what I have called elsewhere a 'perspicuous concreteness' that the application of ethical words in other settings can easily lack. Asked in this way, 'Is this adultery?' may take some answering if marriage-laws are complex enough, but the difficulty of the answer will be of a different order from the difficulty of answering questions like 'is this punishment proportionate?' or 'is this good business sharp practice?' I am not suggesting that sexual questions are bound to be of this sort, only that there is a strong temptation for ecclesiastical authority to make them so. Sexual and matrimonial debates seem safely fenced off and equipped with an effective decision-procedure when canon law gives terms like 'ratum' and 'consummatum' the meaning it does. Not only does the matter look 'perspicuous'; its significance has been 'placed' or 'focussed' in a way that perennially attracts human thought, with its propensity for seeing meaning as naming.⁶

It is just this 'perspicuity' that authors like Kelleher and Doherty have rejected in the name of a more personal appraisal, and their accounts of consummation, of the marriage-bond, and of its dissolution, are natural consequences of the rejection. My next step must be to state both my sympathy with their suggestions, its limits, and my reasons for wanting something more.

I would put aside one reproach as beside the point. It might be objected that both Kelleher and Doherty are talking in a context which is far more limited than they make clear—they write as white, middle-class Americans who are or have been working within organisations devised by and for such people. This is true but irrelevant: the whole merit of their works is that they exhibit one specific pattern of reaction to church discipline as it exists. That there may be other patterns, and other disciplines, neither author denies—indeed, Doherty has several rather laborious pages on cultural diversity, the future, and kindred topics. The day has gone by when one solution is going to be universally accepted, and these two books make their contribution to the coming multiplicity. After all, we read some time ago in this journal about 'Black Theology'. Well, this is a piece of 'White Theology'—'Caucasian', rather, if we are to compete in absurdity. (How far it is white at all may be questioned: Kelleher tells us that the clients of the New York tribunals who paid their bills most punctiliously were Puerto Ricans.) Moreover—and here the point comes home to us in this country—what an energy and willingness to argue is shewn in the American Church, whatever we may think of the solutions offered or of the unhappy Cardinal Cooke's dismissal of Kelleher! Can we imagine anything of the sort (apart from the dismissals)

⁶The attraction for the vulgar of papal power lies here, for popular belief sees in the Pope the meaning of the Church's unity, perspicuously placed. In *Humanae Vitae*, the two 'perspicuities'—papal and sexual—met: the encyclical is the paradigm-case (*reductio ad absurdum*) of the belief.

happening over here? Let us see something of what they have done over there.

Of the solutions proposed in America and elsewhere, two will be familiar to some readers. The first touched marriages where a previous bond existed which the present spouses believed (but could not prove) to be soluble—the previous partner was not baptised, there was an existing impediment, and so on. Where the spouses had been living in a stable union for some years, they were officially allowed to use their own judgment as to the validity of their present marriage, and so as to their right to the sacraments. Indeed, the Bishop of a diocese called—nay, proclaimed—‘Baton Rouge’ announced in 1972 that his Chancellor would pronounce officially to this effect, in cases where evidence acceptable to a tribunal was not to be had. Rome, understandably aroused, endeavoured to interpose itself, and later that year the practice was forbidden (although it continues unofficially). This ‘Good Conscience’ solution touches lack of evidence. Another solution—‘Lack of Due Discretion’—has been invoked where the evidence is indeed there, but points to the existence of a canonically sacramental and consummated marriage. Here, an attempt is made to shew that one of the partners in a marriage was not, at the time of its contracting, possessed of sufficient maturity and judgment to be able to enter into such a contract. The distress which such a plea can cause (since the accusing party’s own ‘indiscretion’ is not examined), and the frequent artificiality of alleging it, are narrated with sympathy by Kelleher. Neither he nor Doherty believes that these two solutions can do more than palliate the defects of a system that needs a fundamental change.

Neither solution aims to do more than seek reason for regarding an apparent bond as either soluble or non-existent. Neither, then, faces head-on the question of dissolving a bond believed to be valid in the strongest sense, and both might be accused of prolonging the defective structure of the canon law, when in fact it needs terminating. I do not find this kind of accusation—here or elsewhere—very convincing. A quest for a new beginning may itself, precisely because of its more radical character, serve to perpetuate the very canonical structure against which it complains. Moreover, and more important, opposition like this between palliation and reconstruction is less absolute than it looks. Just as the existence of rules presupposes some agreement in their application, so a persistent allegation of exceptions challenges the rule. Both the solutions mentioned involve the pronouncing of judgments on the past in the name of a different present; in each, the evaluation of a marriage has been given a temporal dimension it previously lacked.

However, talk of a need for structural change here does point to what seem to me defects in the suggestions made by Kelleher and by Doherty (and, of course, by others). The defects shew a pattern which may be detected elsewhere in theology today. The older norms for ‘*ratum*’ and ‘*consummatum*’ are rightly seen as failing to do justice to

the matter of marriage; the norms suggested in their place are conceived in justifiably personal terms; but they do not seem to take account of the fact that the significance and value of marriage need appraising in terms that are more than personal. They have replaced a quasi-biological perspicuity with a personalism that is indeed less perspicuous but which isolates the moral *quantum* of the marriage-bond almost as much as did the older account. Perhaps I can make the point clearer by an example. Kelleher writes of the great variety existing between one tribunal and another in their willingness to grant annulments (Brooklyn good, Washington and Newark bad), or the differences in result that exist between one time and another, or between one judge and another. Should eternal salvation, he asks, depend upon place of residence or date of appeal? This, I suggest, is not the way to face the problem. Any institution is both constituted and limited by its tangible, concrete embodiment in space and time, and legal institutions are conspicuously so (as Canon Law, give it its due, has admitted by distinguishing external from internal *forum*). Places, times and people are not extraneous accidents in law, they are part of the means by which it works. (I once mildly reproached a nine-year-old who had promised to serve my Mass on the morrow and then not turned up. 'But that was *yesterday*' he replied, genuinely shocked.)

I do not make this objection because I reject the suggestion that divorce and remarriage should be given a place in the Church. I do not reject the suggestion at all, but I am uneasy with the pattern of argument for it that I detect in the two books. It is not just that the parties in the case are deemed to be so *mobile*, if I may so put it—able to shop around for advice, able to furnish information that may call for travel and research, able to spy out the land for priests who will accept a 'Good Conscience Solution'. After all, mobility is a characteristic of some people's life, and can well find expression in their facing of life's problems. Rather, the parties seem so *isolated*, isolated in their confrontation of a union that is insupportable and isolated in their quest for another. In one sense, they are indeed isolated—they see themselves as at the end of a road, and at a point where no one else can take the final step: *on meurt seul*. But in other senses, they are not isolated. Obviously, there may be children (or not so obviously: neither Kelleher nor Doherty seems to mention them); there may be a difference of opinion between the spouses as to whether they should part; there will be their economic status and prospects; there will be the present union of the contemplated second partner, very likely; still more likely, there will be those affected by the example and precedent of what has happened. Most of all, there is the structure of marriage itself, which is not reducible to the present preferences or qualities of those who have entered it. There are patterns of sexual companionship that are indeed so reducible, but marriage is not among them. Which is why it provides a setting (arena at times) for accommodating success and failure that the other patterns do not provide. If death is solitary, life is not. To isolate the personal distress of a partner is to overlook

the fact that there can be few areas of life where happiness, disaster, and conflict with law are more antecedently likely than marriage. It will never fit a tidy pattern, and it will certainly never fit any pattern drawn in terms that are no more than personal.

Paradoxically, the bad record of the church in sexual matters might be of some help here. Kelleher writes of efforts that were made in the States to shew a better way—the ‘Cana Conferences’ in preparation for marriage, organised by Mgr George A. Kelly (that traffic-warden of the erogenous zones). Very perceptively, he laments that he never knew of even one couple who had broken off their engagement after attending them. The things never got down to earth, but situated marriage and sex in an idealistic limbo of symbolism. They were, we might say, of a piece with the latest fatuity from the Catholic Truth Society—that the purpose of marriage is to people heaven. For the older theology of marriage, there was no damned merit about it, and the abusive language of the Fathers at least prevented spouses from expecting too much, or from thinking in terms of perfection. A dash of the same theology might prevent us from imposing upon those who divorce and remarry a standard that is not germane to their condition.⁷ It is often said that pity and love should be shewn to those whose marital state is not what it should be. The point is a fair one and (given what priests are) needs making. Thus, the predictable Cardinal Höffner of Cologne has written in defence of a strict interpretation of tradition. R. Simon comments on his writing: ‘*on peut rester perplexé devant l’image de Dieu qui s’y dessine*’ (p. 518). But pity and love are not enough. They tend to vary overmuch with the community’s preferences (Jesus disconcerts here by shewing pity and love to extortioners as well as to prostitutes. It is as if there were little to choose. An uncomfortably comforting thought.) Moreover, what more demoralising experience is there than being an object of pity and love? What is wanted is an acknowledgment (grudging, if need be) of a second union, not a warm-hearted winking at its irregularity. I have suggested that the very failings of the older theology might have something to teach us here, but of course I am not suggesting that we should reinstate the nonsense it talked. The reverse—our present acknowledgement of its defects ought to lead to a confrontation with the attitude to remarriage that we have inherited from so disreputable a tradition. (To see how tenacious the tradition is, one has only to attend a wedding in a Roman Catholic Church, and observe the wretchedness of the rite and—usually—the uncomely *gaucherie* of the priest. Neither is accidental.)

‘Confrontation’ may seem strong, but what else can we say? To

⁷Much has been made recently of the ‘economy’ by which the Orthodox Church allows remarriage after divorce. It is not pointed out that the same church traditionally frowns upon *any* second marriage, even those where a previous partner has died. Its *Euchologion* (service-book) gives the form for such a marriage, which warns the digamist away from the Eucharist for two years (and the trigamist for five; no higher number is computed), and recites a picturesquely abusive prayer which talks about Rahab the harlot and begs for penance and tears from the happy couple. (Greekless readers can find all this in volume II of J. M. Neale’s *History of the Holy Eastern Church*).

admit Christ's words, but to say he did not tell us what makes a marriage be a marriage (Schillebeeckx) is really not good enough; to say that he prohibited divorce under the assumption that the marriage involved is a true marriage (Harrington) is not much better; and to speak with Kelleher of a marriage being existentially dead shirks the issue: Christ forbade divorce, are we going to allow it? Talk of 'true' or 'real' or 'living' marriage is like saying that ice cannot melt, because if it does melt it is no longer really ice. I submit that we should allow divorce: in allowing it, we shall institutionalise all manner of abuses, but we have got to cut our coat to suit our cloth. We are acting out, in this contradiction within the Church, the gap or contradiction ('tension', if you prefer) between the perfection taught by Christ and the indiscriminate character of his preaching, the recklessness of his invitations to the wedding-feast. (Which, of course, made Matthew uneasy enough to tack the post-script about the wedding-garment onto that parable. One can hardly blame him for trying to bridge the gap; notice that it is Matthew too who tries to bridge the gap from the other end in the sayings on divorce, for he alone inserts an exceptive clause.) I cannot see how the gap can be closed this side of kingdom come: Christ's demands are too great, our needs too pressing. (To admit the gap gives the only sense I can attach to phrases like 'gospel freedom', which otherwise seem grotesquely inapposite, here and elsewhere. The burden of the Gospel is appalling. Perhaps 'free' here means what it does in the 'free gift' of commercial English. It is indeed gratuitous, but one somehow always ends up with less money than one began with.)

To talk of abuse is reasonable, but we should not forget that 'thought-experiments' are ill-suited to arguments over morality. We can easily concoct unseemly examples of successive polygamy (I have sometimes set undergraduates the logical exercise of formalising the newspaper headline 'Asbestos-King Tommy Manville's ninth ex-wife arrives in Miami'), but they tell us little about the plight of real people who are faced with the breakdown of a marriage they once hoped would be in Christ, or at least would work. There are few situations more heartbreaking, for the spouses and for those who love them, and yet the possibility of such situations is built into the very flesh and blood of those who marry. The estimation of blame, the endeavour to mend, the need for other considerations than that of the couple in isolation—all those should have their place. There must also be a place for admitting defeat, and for starting again: a place for making the best of a bad job. Whether the acknowledgment will take the form of a second celebration of ecclesiastical marriage, or that of accepting the existence of a second, non-ecclesiastical union, is a genuine question (on it, see O'Callaghan, 1973, p. 171), but I think the answer is more blurred than we might think. We shall have to accept a multiplicity of marital states, where the multiplicity is individual as well as cultural: as I wrote above, admitting exceptions ends by modifying the rule.

If thought-experiments are alien to moral arguments, so is the quest

for deductive conviction. We may agree on certain general principles and values, but we cannot expect to produce arguments that will dictate one precisely determined pattern of behaviour rather than another, we must expect to agree to differ. Is argument for change, then, of any use? It is, not so much because it is cogent as because it is argument: it accustoms those who dislike change to examine their beliefs; it introduces them to new words and to new standards; it encourages them to give priority where they did not give it, to ask questions they never asked before, to be worried (or not) where they were not (or were). Argument needs to be kept in bounds, if only because so many of our regular habits depend for their good estate upon its absence; but there are places for it, and I submit that the present matrimonial law of our denomination is one of them. Historically and conceptually, that law needs examination, and the odd course it has taken is an odd tribute to the innate conservatism of the human spirit in matters of the sort. Kelleher tells a story that is a lesson here. Lay consultants of tribunals—legal, medical and so on—were invited to a party (plied there with drink, presumably, although we are not told this) and then asked, not just to apply church law, but to make positive suggestions for its improvement. The application was something which all of them had been doing for years; the idea that they should do something more was met with incredulity; then, of course, the barriers burst. Human beings are like that: our mental spectacles are a tight fit, but they can, if we really try, be removed and examined. The content of our talk is less important than the fact of it. Carry on talking.

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