

ONE FLESH UNTIL DEATH: Conversations on the meaning and permanence of marriage

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Preface

The following text weaves together the substance of six study papers drafted between 1968 and 1984. The topic of all six is at bottom the same, though the several components differed, when

originally written, as to addressee and as to style. For the purposes of this 1985 draft, and for the 1996 printout, no effort has been made to make the style uniform. Sometimes the author is "we" and sometimes "I."

The common context of all the texts was the contemporary debate ("contemporary" meaning 1968-1984), within morally serious Christian (mostly protestant) circles, about marriage as a theme of moral and pastoral concern.

Since the first of the private memos which formed the nucleus of this collection was circulated in 1968, the questions have not gone away, nor have they been resolved. It has not been my assignment, academically or pastorally, to process these matters further with a wider community, except as some of my early memos continued to be read and to provoke some feedback, confirming the utility of the continuing search and the pertinence of the perspective I have been representing. Nor has it been my role to pursue the theme in a congregational or pastoral setting; thus the personal cases referred to toward the end of this text are not drawn from a wide experience.

The word "conversations" in the title above is the right word, although here only one voice speaks. These texts are never simple exposition of my own "right answer." They all came into being in response to other voices which have already expressed other views, which in fact have come to dominate the conversation, and which need to be challenged. Those "other views" are usually cited in what follows, with respect, though not always identified with particular persons, except for some positions which have been expressed in print.

This text seeks to be faithful to the biblical view of things, without being fundamentalist. It is an easy response in our day to set aside any recourse to the Bible as traditionalistic, obscurantist, whereas contemporary "common-sense" appeals are thought to be rational, intelligible. The Bible functions here as source of the mainline Christian understanding of human nature, not as a non-historical, transcendent propositional authority bypassing reasonable argument or practical wisdom. The view I defend is classical, representing the main affirmations of Jewish and Christian thought until this century; yet I do not advocate it primarily because it is the tradition. I advocate it as adequate, and as true in terms of sociological and psychological realism.

The primary context of the earlier drafts, that of the Mennonite communities of middle America, has not been edited out. Most of what is discussed here is however in no way peculiar to the Mennonite experience. Some "mainstream Protestants" are more "liberal" than this original context, and some "fundamentalists" and some "Catholics" are more "conservative" on some scales. Any reader from elsewhere on the spectrum should be able easily to see the connections.

I. WHEN IS A MARRIAGE NOT A MARRIAGE?

Anyone seeking soberly and responsibly to illuminate with moral insight the many decisions which arise as marriages are made and broken will need to ask where there is solid, generally valid footing and where the borderlines run. Marriage must be preserved: but what is marriage? Are there not some unions which do not merit the name?

Obviously there are two frequent "borderline situations" concerning which this question is most often posed: divorce as a status authorizing a formerly married person to contract a new marriage, and discussion of the moral meaning of "pre-marital" sexual activity. Our concern must be however to reach beyond the immediate advocacy concerns of partisans regarding either side of any relationship, to look for orientation in generally valid moral understandings.

There are answers to this question which are loosely permissive, even flippant. I do not intend to deal with them here. The three positions to which we now turn are all serious and are all conservative: i.e., they all respond to problems which arise only when one has refused to make marriage cheap and divorce easy for any and all kinds of reasons. They all take the permanence of marriage seriously; only for that reason must they face the question of its "edges" or "fringes" or its breach. To do so they must take one of the following three paths. There are only this many options:

A. There is the **ontological or essentialist-legal** view. By "ontology" we mean that there exists a standard definition of the "being" or the "essence" of marriage. The "essence" of something is what makes it what it is, that without which it is not what it purports to be. If the "essence" is present, this view holds that then that marriage is valid and is to be maintained permanently. If however the "essential" definition is not lived up to, a given marriage may be judged null and void; then it not only becomes permissible to divorce (and then to remarry); divorce almost becomes the normal or imperative outcome, for the union is no longer (or maybe never was) a marriage. Such a view can appeal to the German term Ehebruch, "breach of marriage," as expressing the essentialist view in its negative implications.

The New Testament base for such a view is one possible reading of the two texts in Matthew's Gospel usually referred to as the "exception clause." Matt. 5:32 and 19:9 both insert the phrase "except for fornication" in Jesus' statement of the wrongness of divorce. This is taken (in this view) to mean that in the case of infidelity by one of the partners, the "essence," namely fidelity, has gone from the marriage. The marriage has been "broken"; it no longer exists. It might be restored by a new working of grace, but such restoration is not obligatory, may not be desirable, and may not be possible.

By this minimum definition, the "essential" is fidelity, i.e., non-adultery. A fuller demand might be "love" or "respect" or "quality of relationships." One can well argue that abstention from adultery does not suffice to make a union real. Sexual relations in a legal marriage without deep mutual loving respect may be morally worse, some argue, than loving relations without benefit of clergy. Thus the "essentialist" view can go so far as to say that any union where there is not "true love" is broken in essence and may (or in some arguments even should) be dissolved legally. Then we are not far from a blank check.

B. There is the **realist-objective** view. The term "realist" signifies the claim that whether a marriage is or is not a marriage is not up to men and women to rule on: the reality is there in the cosmos, in the nature of things, whether we like it or not. The phrase which the marriage ceremony often quotes from Jesus, "What God has joined . . ." points to a status which is like life. It is not revocable on the ground of insufficient quality. A person who falls short of ideal personhood is not therefore to be killed. Likewise, if a marriage falls short of what it should be, this is regrettable but it does not suspend the marriage; it rather heightens the urgency of the duty of restoration.

The most striking biblical base for this view is the argument of Paul against consorting with a prostitute, I Cor. 6:15. Paul does not argue (as the "new morality" fad of a few years ago could) that the relationship with the prostitute is wrong because it is superficial, manipulative, or fails to take her seriously as person. The reason is the opposite. The relationship of a man with a prostitute is described by the same phrase "one flesh" which Jesus had applied to the divine purpose for marriage. Whether the liaison be legal, whether it be morally sanctioned, whether it be intended for permanence or not, it is still "one flesh"; that is why it is wrong. Far from disqualifying such a relationship because it fails to meet the requirements for a marriage, Paul condemns it because it does.

Here the "anti-fundamentalist" demurrer must be repeated. I am not citing Paul's "realism" in the sense that you must believe it because an apostle wrote it. Paul says it because he thinks this way, because the ancient Hebrew vision of human nature fits reality.

The conclusion is then that any sexual union, however inadequately it be understood, however lacking be its intention, links those two persons in the "one-flesh" relation which is the essential and sufficient definition of marriage. There ought to be tender love, but it is still a marriage if there is not (and of course in most of human history tenderness has not been a stated prerequisite). There ought to be a commitment to lifelong monogamous fidelity, but it is still a marriage if that commitment was not articulated.

C. There is the **realist-legal** view, which combines the "realism" of the second view with the nullification-by-definition which characterized the first. Whereas the first view suspends a first union on the ground of a second sexual union, even if it be an impermanent one, which is taken

as proof that the first union has been "broken," this approach reverses the same logic. Since the second union is adulterous, it is a sin. It therefore cannot be a marriage. The first union, even if legally dissolved, still stands before God. The second union, even if it is made legal and is socially successful, is a sin, rather than a marriage. How long it lasts or how well the couple get along is irrelevant to its status as not being marriage.

This position is held by official Roman Catholicism, and by most conservative Christian traditions, including most North American Mennonite thought until the 1960's. It seems on the surface to be in line with the mainstream of New Testament teaching on the sacred permanence of marriage (with the exception of the "exception clauses" referred to above). We can therefore call it the majority position of the Christian tradition. Any deviation from this view, on the part of serious ethicists or counselors, has the burden of the proof.

II. THE CHALLENGE

This burden of proof has nonetheless been taken up, especially by advocates of the essentialist-legal position (A above). This was argued in the late 1520's, in a text attributed (probably incorrectly) to Michael Sattler, with special reference to the way in which Anabaptism divided families. A similar "essentialist" position has run as a sub-current throughout American Mennonite history, being restated for instance in a district conference action in 1867. It is now being strongly argued in North American church leadership circles. What are the reasons for its gaining ground? There are several, and they do not all have the same value.

A. There is the aggressive missionary stance represented by the Sattler document and by early Christianity. A convert to the Christian faith may for that reason be rejected by his or her spouse. According to the instructions of I Corinthians 7, the Christian spouse should remain with the unbelieving partner if possible, but if rejected, "she is not bound." If the unbelieving partner rejects the believing partner and then remarries, the believing partner is innocent of guilt for the breach of the marriage bond, and may remarry, "but only in the Lord" (v. 39), i.e., only with a fellow believer. Whatever be the validity of this argument (it disregards the first part of v. 39: "A wife is bound as long as her husband lives"), it will seldom be applicable in contemporary experience, since very few of the divorces we see have this cause.

B. There is the accepting missionary stance of the modern urban mission. Any growing urban church will encounter, and may well win into its membership, persons already divorced and remarried, living responsibly in a legal, socially stable second marriage. According to the realist/legal view this second marriage is legalized sin, and must be forsaken, whether or not the prior union can be reconstituted. This is an impossible demand: it means renouncing the evangelizing of such persons, who in the North American city may constitute up to a half of the accessible population. We note that to accept such a second marriage, already constituted before the parties' coming to the church, is a far cry from blessing a new second union on the part of a

formerly married member; yet in few settings could a congregation accept one and reject the other.

C. There is the accepting-pastoral argument. It is uncharitable and unwholesome, it claims, to ask people to stick it out for life in a marriage which has gone bad. A loving God, and a loving, accepting church would not demand of people such suffering without hope of release. This position, of course, makes the prior assumption that ethical decisions are to be made on the grounds of our own calculation of what we deem to be helpful, useful, or fulfilling. It does not answer the realist-legal position by arguing for an exception. It does not argue the ethics. It merely talks past the other position on other grounds. If stated with full clarity, these grounds would be what is called hedonism. The claim is that the primary moral value, to which other commitments may be sacrificed, is one's own happiness.

D. There is as well a biblical argument. In Old Testament thought there is some limited room for divorce, but together with it there is an especially clear rejection of any return of a divorced spouse to the former partner after a second marriage (Deut. 24:1-4). But this restoration of the first dishonored bond is just what the realistic/legal view demands. That cannot be what Jesus meant. Whatever Jesus meant by the "exception clause," it cannot have been directly counter to the Old Testament taboo on returning to the former partner.

III. THE CHALLENGE TO THE CHALLENGE

The argument reported above as "the challenge" has been growing in favor in current Christian circles, especially in those (conservative evangelical, Catholic, and therefore also, in a derivative way, Mennonite) circles where the realist-legal view had been dominant. The concern for loosening up the anti-missionary implications of the realist-legal view has led many to a well-meaning and uncritical acceptance of the essential-legal stance. This uncritical haste, on grounds not of ethics but of pastoral acceptance, is what this present outline challenges. If there were only two options, then it could be argued that the essential-legal would be the more flexible, more missionary, perhaps the more "redemptive" of the two (though even then, those values are not the only ones that count). But there are more options, which have not been tested, especially the realistic/objective one, which has the strongest biblical base. In the effort to move forward from here, I begin by describing some of the seldom-noted shortcomings of the essential/legal view whose growing popularity has just been described.

A. The "essential/legal" and the "realist/legal" view, the two which dominate the debate, have in common their legal character. Their concern is about whether to justify an exception to a general rule. They both do so by defining criteria to determine which marriage should stand and which can count as "broken." They both take into human hands the authority to put asunder what God has joined, to justify or to ratify a breach. Thus they center attention, as "law" usually does, on

the negative case.

It would be possible to center the entire argument on just this particular point, and to claim that the "legal" way of thinking is itself what is generally and most basically wrong. For such a reproach the word "legalism" is often used. One of the easiest, laziest argumentative moves often made does just that.

My argument here does identify some specific weaknesses of the legal mode of thinking, which tends to overlook certain of the realities in a situation, in favor of those more objectifiable dimensions which will more easily yield a yes-or-no answer. Clearly the legal mode is a moral flaw if those dimensions of the situation which are thereby set aside are morally important.

It would however be wrong, a too easy move, in this present debating context, if I were to attempt to set aside the concerns of detailed earnestness with the traditional and basically lazy protestant polemical pejorative use of "legal" and of "legalism." We are discussing a realm of human behavior in which it is very important to be able to provide a maximum of concreteness and generalizability in ethical guidance. We must seek to do so in a context in which majority protestant permissiveness has made it increasingly difficult to do the business of ethics responsibly. A "legal" approach is wrong if it leads us to depreciate certain important facts or valued insights, or if the decision-making process is wooden or artificial, or concerned primarily with condemnation or punishment, but the central concern of the "legal" mode, namely to find concrete alternative answers in given difficult situations, by respecting useful rules, must not be set aside in favor of vague slogans like "conscience," "self-realization," or "redemptiveness," or "pastoral sensitivity" or "discernment."

B. Both the above views assume, as the New Testament does not, that there cannot be two marriages at once. The only grounds for dissolving the "other" union (namely the first one for view A, the second for view C) is that monogamy is part of the "essence." The realist/objective approach would on the other hand not need to see any grounds for one union automatically to end another. Bigamy is certainly not as healthy as monogamy, but this does not keep it from being possible that it might be real marriage, before God, with (in each pair) both partners permanently bound together before God. Plural yet real marriage is taken for granted as real in the Old Testament, and is not condemned (except for bishops) in the New. Then it cannot follow that the second union ipse facto invalidates the first or vice versa.

It is often the case when we stumble over an unsolved problem that a large part of our difficulty lies not in the items we argue about but in the unquestioned, common assumptions. A key assumption in the logic of the essential/legal view is that only monogamy is valid marriage. That assumption is logically indispensable if the argument is to hold that a second union automatically "breaks" or destroys the former. Yet that assumption has no biblical basis. The New Testament does say that marriage is indissoluble; never does it say that one marriage (even less an act of

adultery) dissolves the previous one. We have been led into this assumption by modern legal proceedings according to which it is possible to "break" one marriage and then contract another, not by biblical understandings of reality.

It is at this point that the legalistic character of this approach is not so much interested in fundamental affirmations about what marriage should be at its center, or what the spouses' duties to one another are, as it is in finding a basis upon which it can be argued that in the extreme case a given marriage has been broken. But for this reasoning to work, it must make assumptions which it does not lift up for testing, and which when lifted up for testing are seen not to be biblical. Of this nature is the assumption that infidelity breaks a marriage. Adultery is a sin against the first marriage, but it is precisely because the first marriage remains a marriage that that is the case. If a marriage were automatically destroyed by sinning against it, then it would not really be a meaningful statement to say in the first place that any marriage is permanent.

C. The word porneia, rendered "fornication" in the exception clauses, normally would not refer to infidelity of one partner within a marriage; for that there is a more precise term, moicheia, more usually rendered "adultery." Thus the only way for the "exception clause" to prove the essential/legal point is to give the word a meaning it does not normally have.

D. The same teaching of Jesus is stated without the exception clause in both Mark and Luke. To give the essential/legal meaning to the clause as it occurs in Matthew would make Matthew's Gospel less morally demanding than the others, whereas generally the opposite is the case. The fact that this clause does not appear in the parallels cautions us against ascribing it legal status. The main thrust of Matt. 19:1-10 is to reaffirm the permanence of marriage, over against the acceptance of divorce in Deut. 24 and its wider legitimation in current Jewish usage. Jesus appeals over the head of Moses to the original creation order.

"Except for fornication" is in fact not a clause at all in the Greek, not an affirmation at all, but a mere adverbial concessive phrase, modifying an affirmation whose main thrust is in the other direction. The main thrust of Matt. 5:32 is to move the guilt of adultery from the woman to the man, and to move the moral teachers' attention from the consequences of a deed to the responsibility of the one who takes the initiative. The man who dismisses his wife "makes her an adulteress," Jesus says, by the act of sending her away, even before she has joined another man; for Jesus the central meaning of adultery must then be not the new union but the rejection of the former one.

According to proper literary method it is certainly challengeable to base upon such a tiny phrase, appearing only twice among four parallel statements whose major thrust is the opposite, a systematic ontological view according to which a marriage can be declared "broken" when one partner sins once against it, a view with no other biblical support.

The questionable character of the entire argument is further signaled by the use of emotionally colored terms like "redemptive" to designate the essential-legal view (whose main decision is to reject the old union as unredeemable), and by the failure to identify the hedonistic understandings of what it assumes constitutes the "quality" of a good marriage (so that there not being enough of that invalidates a weak one).

E. To take the "exception clause" literally often means in practical application a petty search to determine who was the "innocent party" who may remarry.

Whether the "guilty party" is also free to remarry, this logic does not clearly say. On the one hand, if his first infidelity, which broke the marriage, is a sin of which he should repent, then one can hardly see his being blessed by staying in that (originally illicit) relation. Yet the ground for the annulment of the former union, according to the argument, is that the new union (though illicit initially) is so real as to replace the former one.

This fosters the idea that one party is clearly to blame for the failure of a marriage, and favors concentration on the actual deed of adultery as the real offense. Both of these moves depersonalize and legalize the issue, and do violence to the complexity of any process of estrangement.

The complexity of the legalism becomes even more unmanageable if one moves away from the mere act of "infidelity," which one claims "broke" the marriage, to an "essence" defined more "spiritually." How much "mutual loving respect" is needed and how is it measured? Does any couple really know what they are getting into when they marry, and really promise enough? Are the prerequisites ever all there? If one element is missing does this disqualify it? Can one failure be forgiven but not three? Does every individual have the right to make this judgment? Or the professional marriage counselor? Or the church? Or the courts?

F. Although this is not the intent of those who use the argument, its evident and necessary implication is to undermine radically the entire concept of the permanence of marriage. In the face of any adultery, or perhaps even any lack of tender love, the normal application of this logic would tend to dissolve the marriage, almost any marriage with any flaws. The burden of proof is with those who would restore it; divorce would be more natural, more honest.

Such an acceptance of the logic behind the Hollywood pattern of one marriage easily displacing the preceding ones is not the initial real intent of the argument. The appeal to the notion of an "essential" breach was brought into the discussion only to loosen up a little the conservative rigor of the realist/legal view. Yet if taken seriously this is its meaning. If the argument is to work logically at all it must work honestly, and then normally it would have to end every marriage

which has once "failed." The argument is too powerful for what it intends to prove.

G. If the "essence" is defined as "mutual loving respect," it would need to disqualify as non-marriage most marriages in most of human history, most of the non-western world, most of pre-romantic cultural history. For millennia, "tender love" has not been defined as essential to the meaning of marriage, and has often been absent in fact. Biblical faith has been working long at "raising the sights" of any culture's view of marriage. Some modern romantic and "partnership" thought may be useful, as aid in stating a high view of marriage's goals and potentialities, but not as new requisites disqualifying all that falls short. The fundamental social-moral meaning of marriage is its service as the basic unit of society, and as a structure for the care of children and the aging. This social and moral meaning is only derivatively dependent on the quality of personality dynamics between the parents. To place the psychological health or happiness of the parent above the unity of the basic social cell is already to reject in principle the permanence of marriage.

H. It is fundamentally, formally ground for suspicion that this line of argument owes its widespread current acceptance to practical, even church-political considerations, not to careful theological testing. It has been welcomed and used as a crowbar to pry open rigorous church disciplines which many hurting people wanted relaxed, without asking whether it is the only and best tool to do that. Choosing one's theology for its immediate strategic usefulness makes of it no longer theology but ideology. It is thus not surprising when it turns out that, while it was meant only to loosen up the discipline on some borderline cases in mission churches, its logical implication would be to authorize, or even to demand, the suspension of any marriage, even between partners both in full membership and under the pastoral care of the church, that faces real "trouble."

IV. THE CASE FOR REALISM

The currently popular essential/legal position which we have here been testing has tried to overcome the older realist/legal majority tradition by keeping, but inverting, its legalism. It ends by sacrificing any theologically founded permanence in marriage beyond the persistence of both partners' loving intentions. What would the alternative be if we reversed the strategy, keeping the realism and dropping the legalism?

At this point I repeat the double-edged warning about legalism (III/A above). Legalism as an "Ism" is bad morality. It leads to decisions inadequately respectful of all the reality of a situation. That does not mean however that thought patterns which deal with norms and principles are wrong. The "legal" approach is in error when it sees its purpose to be making free space where the rules do not apply: not when it seeks to make its rules wholesomely relevant in the interest of

the human fulfilment toward which they were originally directed.

A. The realist method would have the advantage of proceeding from the center, not the fringe of biblical thought. Its key support in New Testament usage is not an ambiguous occasional exception clause but the central definitional language: "one flesh . . . let no man put asunder . . ."

B. This affirmation is psychologically realistic. It is not the case, at least psychologically, that any marriage union can be forgotten, ruled nonexistent, just because it failed to be loving enough. It is the case, in psychology, that one remains "one flesh" with any sexual partner. Especially this is the case, according to some kinds of evidence, for the first partner. That experience remains a part of the self. A person with a history of promiscuity actually has left parts of his/her personality wherever he/she has been. He/she can never be other than the person he/she has become, bound to all those he/she has abused or been abused by. Remarriage does not change this. Divorce does not change it. The second marriage may be real, but so is the first. Psychologically the second will only have some hope of viability if the fact of the first has been faced.

A most precise statement of this realist view is found in a counseling pamphlet prepared by the Presbyterian Department of Campus Christian Life:

"Even the most casual of sex contacts creates a union which is very real, though neither partner intended anything permanent to happen. We may be very clever in avoiding such consequences as venereal disease or pregnancy, but here is a consequence that can never be avoided.

"The man or woman who practices 'sex liberty' faces an inner disintegration which is all the more serious because it may for a long time go unrecognized. He is soon bound by invisible ties to dozens of people who are strangers to him in every other way" (The Two Shall Be One: A Christian Understanding of Sex, p. 12).

C. This approach meets the accepting-missionary concern. It can admit the second, existing marriage of new believers without needing to claim authority to rule on the nullification of the earlier one, either in the cramped "guilty party" form of this reasoning, or by the wider permissive passepourtout "mutual loving respect" standard.

D. Only this view respects radically the main thrust of the New Testament teaching that marriage is lifelong (I Cor. 7:39, Rom. 7:2, Ephesians). We have picked up the "one flesh" language as the most pointed; but the Biblical realism's expectation of permanence is far more general.

E. This approach is reinforced by the highest view of marriage's permanence which the Old Testament provides, in the book of Hosea. There the point of the prophet's experience was that God's faithfulness to his covenanted spouse is not dependent on her faithfulness, and therefore not changed by her unfaithfulness. Hosea's faithfulness is a parable of God's faithfulness; but is God's faithfulness not then a pattern for marital unity? In Eph. 5 it is. If reconciliation through suffering servanthood is a pattern elsewhere in biblical ethics, would it not apply here as well?

Then let it be noted that the "Realism" which sees every marriage as a call to Hosea-like restoration is different from the traditional legal Realism which sees every marriage as an untouchable, solid entity. The one sees Jesus' "one flesh" word as a gracious promise, the other sees it as a crushing burden. To say that no marriage is hopeless, or that every marriage is made of constant costly restorations, is not a hard legalism but an invitation to healing. To say of an already divorced and remarried person that the first marriage is still real, still part of him/her, is more redemptive (because more realistic) than to let all counseling and future moral choosing be based upon the legal fiction that there is nothing there any more.

V. BUT THEN THE EXCEPTION . . . ?

We have already indicated the doubts which must be raised textually about whether the two clauses usually referred to as "exception clauses" may properly be taken to mean what the essentialist/legal position makes of them: namely authorization to annul a marriage by virtue of a sin committed against it. But if the Realist view is to hold, there still must be a possible correct interpretation of this text. Is it a fluke in the Gospel text? Or can it be respectfully interpreted as a consistent expression of the realistic view?

Such an explanation has been proposed, in quite independent studies of the issue, by scholars with no sectarian axes to grind:

John Dominic Crossan, OSB, "Divorce and Marriage in the New Testament", in W.W.Bassett, ed., The Bond of Marriage, Notre Dame University Press, 1968, pp.1-40. Crossan credits earlier advocates of the same view: Bonsirven, Leeming, Dyson.

H.Baltensweiler, "Die Ehebruchsklausel bei Matthaus," Theologische Zeitschrift, XV, September 1959, pp.340-56.

Proceeding along different paths, both authors reach essentially the same conclusion, which I here summarize.

We begin by weighing the significance of the fact that this "exception clause" is found only in Matthew, whereas the general teaching of Jesus on the subject as given elsewhere in the New Testament (I Cor. 10:7ff, Mark 10:1ff., Luke 16:1ff.) has no such qualification. Whether we understand or interpret this as meaning that the writer(s)/editor(s) of the traditions in the first Gospel himself added an interpretative remark to the tradition, in order to fit it to the specific situation of his readers, or that he and the other gospel writers preserved different original sayings from Jesus himself, makes no difference for present purposes. In any case Matthew (the book) has special reasons for including these modifying clauses. Therefore their meaning must be understood within the context of Matthew's special editorial and pastoral interests, which are generally agreed to be concerned for the discipline of early Jewish-Christian churches before the end of the first century. Matthew's position is generally more demanding than that of the other Gospel authors.

The core of the problem is to grasp the precise meaning of porneia, the term variously translated "fornication" and "adultery." I noted already that there is a specific term moicheia referring specifically to marital infidelity, so that porneia is least likely to have just this meaning. Is there any way of knowing more directly just what it might have meant in Matthew's own context -- i.e., not in NT language as a whole but in the context of conservative Jewish-Christian ethical thought? Baltensweiler, Crossan, et al. are not trying to dodge an issue but to understand the precise meaning which the term really had for the author and his first readers. The root meaning cannot be an act of adultery, since there is another word for that. It means "sexual impropriety"; but of just what kind? Two observations help us answer this.

A. One of the evident possible meanings of porneia (as well as of its Aramaic/Hebrew equivalent zenuth in rabbinical moral usage) was the status of incestuous marriage, such as that of a man with his father's wife, which Hebrew law forbade, but in which a proselyte to Judaism may already have been living at the time of his conversion to Judaism. The more rigorous rabbinical school of Schammai demanded that such a marriage be annulled, while the more permissive Hillel and Gamaliel would permit such proselytes to remain thus married.

B. In early Christian literature, apart from Matthew's Gospel, the witness closest to the Matthean context is the reporting in Acts on the relations of Jewish and Gentile Christians in the missionary work of the Apostles. There we read that the community at Jerusalem formulated a four-point recommendation, later called by some an "apostolic decree," for the Gentiles "to keep" (Acts 15:20ff., 21:25ff). The four points are attributed to Moses (15:21). They are on the whole rather ritual than moral prescriptions.

These same four points occur in a specific set of prescriptions said to apply not only to Israelites but also to sojourning strangers (i.e., gentiles) in Leviticus 17-18. There is little reason for doubting that the reference to "Moses" meant the Leviticus text, as a precedent which it made good sense to appeal to in order to throw light on the degree to which non-Israelites might

appropriately be asked to conform to Israel's ritual regulations.

Since the Jerusalem Christians were very faithful Jews, it should not be surprising that a decision of the council in Jerusalem should have appealed to such a Mosaic basis. It would be normal to expect that such a basis would have been called upon in a place where the Law was dealing with non-Israelites. It seems then like more than co-incidence that the requirements of Leviticus 17-18 touch on four items:

- 1) sacrifices offered to idols,
- 2) meat from animals killed without being bled,
- 3) blood, and
- 4) incestuous marriage. In the Acts text the meanings are the same for the first three of the four items. Would this not lead one to hypothesize that the remaining items are probably also parallel, so that the porneia of Acts 15 would be explained by the marriage with one's own kin which is condemned in Leviticus 18?

But then it would follow that porneia would refer not to just any kind of sexual misbehavior, and specifically not to adultery against an existent marriage. Adultery is always forbidden, on general moral grounds. There is no reason to drag just one particular ethical issue into the letter from Jerusalem to the gentiles. What it most logically refers to is marriages tolerated by hellenistic gentile usage but forbidden by Leviticus. Rather than mixing moral and ritual concerns, the "apostolic decree" is then all "ritual," and all on the theme of Jewish/Gentile relations. One of the adaptations to Jewish law which could thus be asked of Gentile believers would be the dissolving of marriage relationships between relatives which are not allowed by Leviticus. Such a divorce would then be the one exception which is permitted to the permanence of the marital tie. Its basis is clearly in no way a moral offense on the part of a "guilty partner"; it is the annulment of a marriage which should not exist.

C. Putting the pieces together, it would seem to follow that the moral tradition recorded in Matthew's "exception clauses" was a faithful application of Jesus' basic realist rigor to the context of moral discipline in missionizing Jewish churches. Matthew's churches were choosing the more rigorous option, and therefore accepting such a pre-existent incestuous union as a case - and the only case -- where a marriage bond may be loosed, because its continuation is taboo or a shame. Jesus' words do not rigorously say even now that such a union must be dissolved, but at least they open the door so that it may be, and thereby place no check on the demands of the "judaizers" who would be challenging the marriages of proselytes.

D. This synthesis gives the best way to understand the "incest" of I Cor. 5, where Paul writes about a man living with his father's wife. The culprit in question would hardly have been

tolerated by the church, and the congregation would hardly have written to ask Paul about the case, if the man had not made a case for himself. Then the relationship must not have been simply completely disorderly. It was most likely a legal marriage, allowed by local custom though forbidden by Roman law for Roman citizens (which would be Paul's point in saying that "even the heathen do not act this way").

E. A tract by James Graham circulated long ago by the Mennonite Publishing House offered another possible interpretation of the exception clause. Graham pointed to the assumption which is implicit in Matthew 1 that it would have been normal or proper for Joseph to "put away" his betrothed Mary, between the time of their betrothal and the consummation of their marriage, on the ground of her apparent infidelity. The term "put away" is the same in the annunciation account and in the exception clause. Thus it could also be, in the language of Matthew, that the exception clause could apply to a case where a marriage had been promised but not consummated. Then the promise to marry could be broken by the groom on the grounds of evidence of fornication (i.e., pregnancy) prior to consummation. It made sense in the narrative for Joseph to be considering that. This argument differs in detail from the one we have found more convincing above, but it still agrees with it at the crucial points:

- 1) The exception clause must be interpreted as expressing a higher, not a lower regard for the permanence of legitimate marriage.
- 2) It cannot be admissible to authorize the dissolution of a marriage by the simple act of sinning against it.
- 3) It assumes a "realist" view of the marriage bond.

Let us summarize the inherent strengths of the essential/legal position. It breaks through the limits of the realist/legal position at a number of points deeply felt to be necessary:

- It opens the possibility of church growth;
- It meets the psychological and pastoral need to outgrow uncharitably rigorous patterns of behavior and judgment, on the part of those who need to prove to themselves that it is possible to be somewhat more flexible without being irresponsibly loose;
- It answers the challenges by appealing to an apparently solid philosophical position, by asking "what is a marriage and what is not?" "In what does it essentially consist?" "How can it be broken? "
- It gives for the exception clause an interpretation which at first sight seems to be clear and coherent.

The realist/objective view, to which we now turn, must therefore show itself able to meet these same tests.

VI. TESTING BY CROSS-REFERENCE AND APPLICATION

The debate with which we have been concerned thus far turned on divorce and marriage; but the same stances have their divergent applications as well elsewhere, e.g., at the other end of a marriage. Where does a marriage begin? The same options (permissive, realist/legal, essentialist/legal, and realist/objective) can be applied. The essential/legal view, more recently called "new morality," says that wherever there is "true love," so-called pre-marital intercourse is permissible, leaving unanswered the question of how, and by whom, the quality of that "love" is to be measured, and without need for other legitimation. The advocates of this view usually avoid being clear about whether this couple is now "married" "essentially," so that they should go on to "complete" their "marriage" with the other elements of public acknowledgment, common purse, and pledges of fidelity, or whether they may later again properly fall out of love and go their separate ways.

Realism would state the question quite differently. It denies that there can be such a thing as "pre-marital intercourse," since (again as illustrated -- not "proven" -- by I Cor. 6:16) intercourse is always marital. So we are dealing here not with a morally isolated deed which may be weighed as an independent variable over against a later marriage which may or may not be consummated: we are dealing with "pre-legal marriage." This is a union where both the realist prerequisite (intercourse) and the essentialist criterion ("true love") are present. What is lacking is the full scope of further dimensions of a whole marriage; common residence, common purse, public acknowledgment, legal permission, public pledge of fidelity This is a defective marriage, due to the lack of these elements, but it is still a real one. It should be called not pre-marital sex but pre-legal marriage. The ethical question is not whether the sex-with-true-love-without-benefit -of-clergy is by definition sinful, but whether "true love" can be honest, can be true love, if it dodges the honest outward expressions which are its normal social form.

The realist-objective view is most able to deal with the relativity of social patterns of formalizing marriage. The elements of public pledge, common purse and residence, legal permission and celebration, may in different societies come in different sequences and stages. In very few societies is becoming married instantaneous. There is normally a sequence of stages no one of which is uniquely decisive. That means that there is always in every culture some point at which a "minimal marriage" exists in the absence of some of the important other things that marriage must properly mean. It must always be said that each stage calls for the others, that whole marriage is preferable to minimal marriage, and especially that "true love" will call for such wholeness of expression. Therefore what is questionable about "pre-marital sex" is not that it is sex, nor that it is "pre-marital" (which, by definition, it is not), but that the avoidance of legality and publicity, the postponement of common residence and finances, and the withholding of the

public pledge, constitute both a handicap for the marriage's success and prima facie reason for doubt as to whether the "love" is "true." This is not sex-without-marriage. It is marriage-without-honesty. It is not that the hasty youngsters sin against backward cultural mores while "fulfilling themselves" and consummating their own love; it is that they sin against themselves, their love and their belonging to one another, by depriving their love of the social consummation, the orderly cohabitation, the fresh air, without which it risks being stunted or amputated.

The difference this makes in the attitude of those who counsel and instruct young persons is probably much greater than the import of the same issues at the point of divorce. The impact of such counseling in the formative time in the experience of young people, and at the time when actual marriage relationships are being formed, will probably have more longer-range impact upon the mores and attitudes of a society than will the handling of the breaking-up of marriages at the other end. Or to relate the issues in another way: it is probably the teaching and counseling people get about how marriage begins which will have most to do with how it will end. There is no point in deploring a high divorce rate if one has taught at the beginning of marriage a view of its nature whose logical implications are to normalize divorce.

The focus on the ministry of ("pre-")marital counseling of youth was given the weight and space it has in the immediately preceding paragraphs and the immediately following lines partly because at that time I was involved in the constitution of a denominational campus ministry effort.

The counselor of young persons who think they are in love, who strongly reinforces in the minds of young persons the essential/legal view by telling them that the real question is whether they "really love" each other, and by playing along with the generational myth that a "new morality" must be better than an old one, has a number of reasons to feel that what he/she is doing is righteous. He/she is trying to get away from the woodenness of traditional approaches to morality, and to interpret morality as a matter of relationships of respect and commitment. This is all to the good. S/he is also attempting to restore some sense of the relevance of religion, by giving religious moral sanction not to impersonal and inflexible rules but rather to the concern for the quality of relationships. This again is all to the good. But without thinking that deeply, he/she does these good things by making a division which neither responsible counseling nor responsible theology (nor responsible social concern) can admit, namely a dichotomy between the individualistic and the social dimensions of what marriage means. By dealing with the problem as if the only issues at stake were the quality of love between these two persons right now, and whether they should engage in sexual relations, the counselor agrees with the impatient youth that only this one question of "quality" or intensity is an important moral question. In so doing the counselor accepts, without even naming it, the fact that what they are doing socially is to reject the other dimensions of marriage: the public announcement, the economic base, the covenant of fidelity, common residence, the acceptance of children, and all the rest. What the counselor is concerned to do is to affirm the integral relationship between "true love" and sex, but by so doing he/she disconnects these radically from the rest of the social meaning of marriage. He/she even disconnects these individuals' present from their future, by not including

fidelity in the measurement of "true love". What matters the most is not either permitting or forbidding intercourse in the individual decision; what the counseling does that matters the most is to separate both of these from all the rest and to affirm that it is good and proper for a marriage to be illegal, to have no economic reality, to be secret, and to be subject to dissolution at the whim of one of the parties since there has been no public pledge of covenant.

The counselor who takes this slant thereby fails to provide just that resource for which a counselor is needed. He/she tells the young person that the criterion which matters the most is the one for which there exist only the fuzziest standards of measurement, in which the person in question is most confident that he is able to make the measurement all by himself. He/she fails to bring to the mind of the young person those tools of measurement which are deeply rooted in the nature of the race, of society, of human personality as future-oriented and as social, and which the young person will not come to perceive if some counselor does not make them available. The counselor thereby denies what all social experience affirms, namely that the most appropriate measurement of "true love" is the willingness to enter into a permanent, public, economically based covenant. By failing to help the young person bring this criterion to bear, the counselor furthers the idea that an emotional infatuation is the best definition of love.

(The context of the above paragraph, when first drafted, was that of campus ministries a generation ago, when this specific "counseling" role was a major part of what young adults recognized that the church or the parental generation had something to say about. It should not however be thought that the professional "counselor" is the first or the only point where moral education or advice is given.)

It should then be no surprise, if after a few generations young persons have been educated on the basis of this set of ideas, namely:

- a) that the relationships of two persons in love may be evaluated morally without reference to society;
- b) that the relationships of two persons in love may be evaluated morally without reference to the future; and
- c) that it is the power and the genuineness of emotional attraction which justifies sexual relations;

that we should observe a rising divorce rate. This is the result to be expected if the above statements are built into people's moral thought patterns. In fact, when these patterns are taken seriously, it should be the normal thing for every marriage to break up, after a few years, when the normal drives toward exploring novelty will make other potential partners seem more interesting than the present one. Thus it is true when the essentialist/legal assumptions are applied before marriage, as we already saw it to be the case when the same assumptions are applied at the end of marriage, that the consistent logical outcome of these assumptions would be

a Hollywood-style serial polygamy, with one marriage at a time, each claiming at the time to be based on "true love," but probably at least two or three in the course of a lifetime.

A quite different question: what does this "realistic" view tell us about the practical question with which we saw that the recent argument begins, namely the fact that many persons, whom the church would seek to serve with the Gospel, are already in a second or third marriage? We have seen how questionable it is to brush aside the problem by saying that forgiveness covers past sin, or that the first marriage was annulled, i.e., declared never to have existed, by the mere fact of a sin against it. We have also observed the strong arguments which count against any notion of trying to restore the former marriage at the cost of the later one, even if that were possible. Nor is it serious to seek somehow after the fact to measure how valid, how real or how tender the first union was, with the hope of deciding that in some cases it would be proper to call for its restoration, whereas in others it would be legitimate to declare it invalid.

Nothing stands in the way of simply recognizing that a person is really bound for life to each past partner, and taking that as a base line for moving forward. This is psychologically realistic, even though it does not find expression in contemporary American law (which operates on the essential/legal assumptions indicated above II/B). The link which ties the remarried partner to the first partner is undeniable, whatever the law may have done with it. This does not destroy the second marriage -- it is also "one flesh" -- but it is better to be honest in recognizing what difficulties the "real" persistence of the former union adds to the second one. The reality of the first union does not provide a reason to refuse acceptance in the Christian church to a person who is living responsibly in a second marriage, but the way it does this is not to make room for it by a legalistic and unnecessary denigration of the first union.

This willingness to acknowledge the factual solid existence of both the first and the second marriage at the same time, i.e., of bigamy as a reality, justifies accepting the extant second marriage of persons who become believer. It does not however reach to justify the remarriage of persons who are separated or divorced who are already Christians. On this matter the New Testament evidence is unanimous.

A. "A wife is bound to her husband as long as he lives" (I Cor.7:39). This sentence picks up the theme of 7:16, the case of a believing spouse forsaken by her unbelieving partner, after a parenthesis vv. 17-38. Verses 12-16 had been Paul's interpretation of Jesus' instructions, cited in vv. 10-11; thus the entire sequence 10-16 and 39ff. is a commentary on Jesus' prohibition of divorce and remarriage.

B. "There are eunuchs who have made themselves eunuchs for the Kingdom of Heaven" (Matt 19:12). The majority interpretation is that this reference is to voluntary, responsible sexual absence, not to physical mutilation. Much later it was taken as a reference to clerical celibacy, but there is no basis for that in the text and no connection to the context. Jesus is most likely still

speaking in answer to the disciples, who had been asking how one could possibly enter a marriage if it must be permanent, with no divorce permitted. Then the "eunuch for the Kingdom" would be the person, estranged from his/her mate by the cause of the Kingdom, and not free to remarry as long as the first partner lives.

Thus although the realist view of marriages solves without ambiguity the problem of accepting remarried persons into the church as they are, it also asks that separated persons now in the church remain as they are. The business of the church is not to find them new mates, nor to pursue unrealistic visions of reconciliation with the first mate, but to compensate in the life of the community for such a person's loss of a family context, by being somehow "family" for him/her.

One further test question arises: the occurrence would be most unlikely, but it can serve to elucidate. What would be the status of things if a former spouse, following divorce and remarriage, were to wish to return to restore the original union? The same legal system which has authorized the second marriage refuses to admit that the first one retains any meaning. By the same token, a "realist" view of marriage, which challenges the right or the capacity of the courts to invalidate the first union, is logically and morally free to affirm its continuing bindingness in addition to the second. The twice-married person is genuinely, ontologically bigamous. Both unions are morally binding, insofar as the respective other partners choose to claim their dues: bed, board, roof, purse, etc. . . . Trained as we are in our culture, the likelihood of the formerly estranged partner's really wanting such restoration is minimal. Nonetheless the awareness of that hypothetical possibility would serve wholesomely to dramatize, in the minds of the persons contemplating entering a second union, what that step really means. The vows which solemnize the second union could in principle include "will you (both) welcome the former partner back?"

On the other hand, neither biblical/ontological realism nor psychological realism obliges us to overdo this affirmation of the first love. There need be no compulsiveness about picking up the pieces of an irretrievable relationship.

VII WHEN IS ADULTERY OR RAPE A MARRIAGE?

Much of the criticism elicited by the above text has to do with the validity of the argument of I Cor. 5, to the effect that the person who consorts with a prostitute is "one flesh" with her, using the same language which the rabbinic tradition and Jesus used to describe the original meaning of marriage in the creative purpose of God.

The reference to I Cor. 5 is not a proof text, nor just one more way to shore up an argument against promiscuity. It is a specimen testimony to establish that the general biblical way of thinking about the reality of marriage is of the kind which I labeled as "realist" rather than

"essentialist" or "legalist."

One obvious objection is that, if we test this approach by asking how we would move with it into all kinds of casuistic applications, it would seem that we would have to affirm the obligation of all her clients to marry a prostitute, in order to follow through on the all the obligations imposed by the "one flesh" relationship which their intercourse had established. It would seem to mean an obligation, in the case of every "pre-marital" encounter, to complete and confirm the life-long union which was thereby created. Does every teen-age "indiscretion" constitute a marriage? Does rape?

While granting the reality of the difficulty, I must insist that it is not a fair test of the logical or theological value of the biblical view of human nature to ask whether, starting where we are, we can immediately and neatly work out a thorough set of casuistic applications, without hard cases. In any kind of systematic moral argument it is preferable to say that biblical realism has something fundamental to tell us, and that then within that insight we make the inevitable adjustments to the available options, rather than to choose some other set of systematic assumptions, idealistic or legalistic, simply on the grounds that it is easier to think through their application.

In the field of embryology it is proper first to say of a fetus that it is genuinely a living human conceptus and then to concede that because of peculiarities in its genetic makeup or its placental implantation it may not be a viable fetus, rather than to claim that it is not a fetus because it is not viable. In the field of criminology we first say that a person is a human being and a citizen with certain inalienable rights, and only secondly do we say in particular circumstances that he/she has alienated those rights through criminal conduct. That temporary loss of all the rights of citizenship, through specific explainable reasons, does not intrinsically remove him/her from the category of citizen. In an analogous way, I can maintain that the clarity and authority of the realist vision of marriage is not set aside by the difficulties of casuistic implementation in special circumstances -- whereas for a legalistic approach, a difficulty in casuistic implementation is a fundamental vice, because the entire purpose of such an approach is to be casuistically reliable.

Thus while affirming with I Cor. 5 that every sexual union does establish a marital relationship, which by its nature in the created order has all that is needed to grow into a permanent monogamous union, I can still admit that when considering the additional elements of publicity, collocation, promise, and tenderness which constitute normal marriage, it may be true in specific cases, most markedly that of the prostitute, that the potential for unfolding into the rest of what it takes to be a marriage is hopelessly vitiated, and therefore there is no obligation to insist immediately upon actualization in every case. But when in such a non-viable case we do renounce insisting upon the completion of a marriage which has been (wrongly) initiated, we must not cover our tracks and confuse our definitions of terms by claiming that it never happened, or was not real, or that its meaning either public or private can be wiped away by a

legal declaration or an act of self-acceptance.

To move from the ethical level to the pastoral, the trauma of rape or the guilt of teenage excess will be far more redemptively dealt with pastorally in the realist frame than in the essentialist or legalist.

This recognition of open fringes which would exceptionally permit not proceeding to institutionalize a vitiated physical union does not let down any bars of legitimation for terminating a publicly planned and consenting marriage between responsible adults on the grounds that it is "not viable." In this circumstance, Paul recognizes clear grounds for suspending cohabitation (I Cor. 7:13f), but only at the initiative of the unbelieving partner, and it does not free the forsaken partner for remarriage.

When this kind of question is discussed under the shadow of the history of unredemptive disciplinary attitudes and naive scriptural understandings, it probably needs to be spelled out yet once more that the references being made here to the instructions of the Apostle Paul interpret that apostolic witness in historical perspective, as a qualified and careful interpreter of the total biblical world view, and not as promulgator of a legal code, which would have to be followed literally, pettily, on the questions to which it speaks and would leave us without guidance on matters to which it does not speak. I am citing Paul not as legislator or rabbi but as expositor of the far wider Jewish and Christian understanding of the meaning of sexuality and marriage.

Another set of criticisms, also concerning whether adultery constitutes a marriage, address the above argument that it is more in keeping with the Bible's realism about marriage to recognize bigamy as reality, even if regrettable, than to try to clear up the question on the basis on the declaration (by what right?) that either the second union or the first one does not exist.

The demonstration was clear that the essentialist assumptions are wrong, when they claim that the second union automatically destroys the first, or that the first makes the second impossible by definition, when the one thus declared invalid had been operative for years.

Yet the wrongness of that argument does not set aside one necessary criticism. Jesus said that the man who puts away his wife, with the assumption that she will be obliged to marry again, "makes her an adulteress." According to realistic definitions, why did he not simply say that the man can not put her away? Why did he not just say that the second marriage makes her a bigamist?

A second dimension of the same kind of argument would say that if a second relationship establishes a real marriage, then there can be no such thing as the sin of adultery, but only the

regrettable but not sinful situation of bigamy.

As with regard to the former question, the prefatory point is necessary: the overall solidity of a world view is not completely dependent on the ease with which it can deal with borderline casuistic details, especially in the hands of people who doubt it. But in this case the difficulty is not so profound. When it is known that the pure will of God is lifelong monogamy, then every other relationship is an offense against that divine will and must be qualified as adultery. Most adulterous relationships, if transient, are nonetheless real marital relationships, like that with the prostitute, which although real are not viable. They constitute a theoretical moral obligation, but not a really binding one, to remain together. When, however, the second relationship has been permitted to grow to publicity, reciprocal pledges, collocation, as a marriage normally does and should grow, then that second union has become just as real as the first. Morality will have to make do with the fact that they both exist, though they shouldn't have. That a fact should not exist does not erase it.

If I were commit myself to pay for a Rolls-Royce in installments, or to apply for Soviet citizenship, or to bet my house on the outcome of a football game, that would be both stupid and sinful. Yet the fact that I should not have entered upon that commitment would no decrease at all my obligations, once contracted, to the Rolls-Royce dealer or the Soviet government or the person who bet against me. It is again an illegitimate essentialism to argue against the reality of a relationship of obligation because it should not have been entered into. To contract a bigamous marriage is therefore one form of the sin of adultery (when measured by the model of monogamy, which does not prevail in all societies). But that does not keep it from being a marital relationship. This is exactly the argument of Paul in I Cor. 5:4.

The reason consorting with the prostitute is seriously wrong is not that it is not a real relationship but that it is one. Once such a real, though originally illegitimate relationship has taken the normal and wholesome course of becoming more permanent, more public, more tender, more binding, it would also be a sin to deny it. Now the offense against the reality of the second relationship becomes just as serious as the initial offense against the unique claims of the first union. There is then no contradiction between my saying that Jesus and Paul would condemn morally any second relationship, as against monogamy, and my recognizing the reality of the second union once constituted.

VIII "LOSING GRACEFULLY" IN THE POLITICS OF ACCOMMODATION

The discussion in Christian circles about the possibility and the propriety of remarriage after divorce follows a regular pattern in the various Christian communities, differing only in the rate with which this change takes place.

Mennonites are currently moving rather rapidly, catching up with mainstream Protestants, leaving behind them a few more conservative evangelical groups and Roman Catholics (i.e., the believers, not the laity and not all of the pastors). Mennonites and conservative evangelicals are thus becoming more divided among themselves, in the absence of any central government where the present status of the matter could be clarified, thus making the division more confusing and more costly. The price paid for division is internal tension, the appearance of arbitrariness given to all ethical teaching by virtue of the diversity of teaching and application, and the uncertainty brought into personal decisions and local interpersonal relations by living in a time when the standards of the past and those who have invested in supporting those standards in their generation have special reasons to be opposed to their changing now.

"Currently" in the above paragraph when it was first drafted meant the mid-1970's. Two decades later the statistics have shifted powerfully toward acceptance of the more liberal protestant positions, largely having happened without formal ethical deliberation on the denominational level. I shall refer below to some local decision processes. For many in 1996 the very idea of taking the formal ethical issue seriously, as the previous twenty pages do, feels like ancient history.

The description just sketched is socio-political, not ethical. It is appropriate that we look at the matter of remarriage after divorce, as a matter of church teaching and discipline, in terms of its institutional and political dimensions, without seeking to run again through the debates about the ethical question in its own right. It is a discussion not about the morality of remarriage after divorce but about the morality of church discipline on a controverted ethical question.

There would of course be no reason to debate this matter if one were so strongly convinced of one of the strong or extreme answers to the question of the morality of remarriage that no diversity in application could be tolerated. If we thought that it was utterly important, more important than other aspects of the shape of the life of the church, to insist on sweeping pastoral permissiveness in the matter of remarriage, we would be ready to jeopardize church unity in order to promote that cause. Likewise if I thought it appropriate to jeopardize church unity in order to maintain a firm traditional position on the prohibition of remarriage, I would not be willing to discuss the matter further, as I do here, on the level of "politics."

In a situation where the diversity of conviction is nourished by the powerful impact of the dominant secular humanist tradition and its power in the churches, it is politically unrealistic to hold that a whole church's membership can "take a stand" at the point of simple prohibition of what they hold to be morally wrong. Most Mennonites have long ago made a difference between teaching the wrongness of participation in war, which most Mennonite leaders do, and making the acceptance of military service when drafted a matter for discipline. Even though "non-resistance" is a more distinctive and therefore more conscious commitment of at least some Mennonite leaders, than is the traditional view on remarriage, the disjunction between what they teach and what they enforce pastorally has come easier for some with regard to military service

and for others with regard to marriage. So the space is defined between normative moral teaching, when guided by scripture and correct reasoning, and what can actually be implemented pastorally in the present shape of the churches.

Let Mennonite readiness to recognize nonpacifists as Christians, and to tolerate military service among their members, constitute the point of access to "political" realism for our present discussion. There are things which are morally wrong, which we teach and educate and admonish against, which we would not tell someone is the right thing to do, but which happen anyway. In the present divided state of the body of Christ, in the present low degree of moral coherence in the Christian community, including post-1970 Mennonitism, it is not pastorally possible to make remarriage a subject of pastoral discipline, in the case where members do not act in line with the officially stated denominational conviction.

Roman Catholicism has a stronger position on divorce than do Mennonites, as it does on abortion and other matters dealing with personal life patterns, yet has for a long time had ways to release a person from their vows. This begins first, with the vows of priesthood or of monasticism, but there are also regular ways to annul some marriages. A still more loose instrument of adaptation is one which is kept below the surface; namely the simple omission of measures of enforcement, even where such measures legally stay on the books, in the simple awareness that such enforcement, if rigorous, would destroy other values or even make the church unable to function. The most striking established pattern in this respect has been the ways in which in many cultures over the centuries the rule of celibacy was not enforced against priests maintaining the equivalent of a common law marriage.

This same form of indulgence has now more recently taken over rather widely in western European and North American Catholic parishes with regard to divorce. Divorced people cannot be married with a parish celebration, yet divorced persons who have been remarried civilly are not prevented from participating in the social life of the parish and its ministries, or (in some places) from receiving the Eucharist if they present themselves. This is not because any formal decision has been made to declare no longer applicable the standard older rule, but simply because in the size and anonymity of the modern parish, and the fact that in the light of the personal sensitivities of the pastor, it no longer seems appropriate for the denial of the ministries of the church to be the sanction upon a second marriage, even though there is no doubt at all that the couple contracting it knew they were doing so against the teaching of the church.

Does the inability of the present church to "enforce" her standards by means of her traditional disciplines mean that there should be no standards? Or might it mean something else? It might mean that the particular understanding of sanctions, which said that anyone who does something clearly wrong must be excluded from the fellowship, should be replaced or preceded by other kinds of teaching and admonition before and/or after the prohibited action. Then it would be possible to say that the church which teaches that a divorced person should not remarry should stand very close to every divorced person, so that she or he can find a way of living without

remarriage, a way sufficiently livable that remarriage against the teaching of the community will not seem to be the only option. Then the church which failed to provide such resources would share the "blame" for the remarriage.

Or one could say, on the grounds developed above, that although remarriage constitutes adultery when it happens, because it oversteps the monogamous obligations entered upon by the parties to the first union, nevertheless once contracted that second marriage is also a real marriage and morally binding, not to be set aside but rather to be made the most of, and obligatory once established.

It would be possible to make more of our humble acceptance of human limits, and to confess that God adjusts to our fragility by granting that sometimes the very best is not available, and the best we can do is less than the ideal, so that, in our concrete brokenness, it is better to accept a lesser good than by demanding the best to get nothing.

Protestants in general, and Mennonites in particular, are not comfortable with the idea of ever blessing something that is second best. Catholic traditions are more accustomed to this kind of adjustment. Yet it would be more honest to say and celebrate the acceptance of God's tolerance within our weakness than to justify such accommodations passively by failing to notice them, as is now increasingly our pattern.

As over against western Catholicism which says that second marriages must not happen, but then tolerates them without saying so, and in contrast with western liberal protestantism that justifies them, Eastern Orthodoxy has a distinctive liturgy for a second marriage which recognizes that it is a result of sin and weakness, and then celebrates and gives thanks for grace in that weakness.

I suggest that if we are not in a position to provide the intensity of moral (include psychic, material, and physical) and emotive support which a divorced person needs, then the Orthodox answer would be more honest than either the Roman Catholic one or the liberal protestant one, and more loving than the conservative protestant one.

This is not to withdraw my own earlier statement of the normative vision of God for all marriages as calling for monogamous fidelity and permanence. If local pastoral responsibility for a person or a congregation were in my hands alone, I would not accept any second marriage while the first spouse is living, without very extensive and intensive review and search for more resources than the divorced person thought were available. But here we are discussing the church-wide or even culture-wide politics of adjustment to situations in which my ideals will not and cannot be realized, either because they do not convince others, or because the community in question does not dispose of the resources which would be needed, or because the individual in question does not consider the guidance I would give to be credible in view of the absence of

those resources.

The concession which the church makes and celebrates in the Orthodox language is not merely, and in fact not primarily, that of giving in to the weakness of the flesh of those particular people who do not have the moral strength to stay single when they knew they should. It is rather a confession of the weakness of the wider Christian community, which is not able or willing to mobilize the resources of caring, of extended family solidarity and quasi-familial responsibility, which would enable persons separated from their still living spouses to live with a semblance of wholeness. It would represent also a confession of our weakness in not being able to sustain, against the current of the times, the knowledge which most married people have, and which most counselors of married and post-married people have, namely that the main need which marriage meets is not an imperative necessity of sexual satisfaction or of nuclear householding, but in a much deeper and broader sense a need for intimacy, trust, security, belonging, which other deep relationships than remarriage could possibly meet, and which remarriage is not sure to provide. For most people now having to live single, marriage is not an available satisfactory alternative. If that were made more clear to those who have many other reasons for living abundantly without marriage, the pressure on those separated from a living spouse would be less.

IX. ONE CAN ACQUIESCE IN REMARRIAGE. BUT CAN IT BE AFFIRMED?

There is thus some space between normative teaching and pastoral realism, enabling me to explain accepting that remarriage keeps on happening. But can one ever **properly enter** a second marriage? Once it exists, we have seen that there is a way to grant that it can be admitted, as second best, as real: but is it ever the right thing to do?

After the above itinerary, it would seem not; is not monogamy always better? The view elaborated above enables permissive pastoral flexibility toward the already remarried; but is it not too rigorous toward the divorced and abandoned?

My first answer has been to defend a far-ranging resistance to easy remarriage:

- a) Most second marriages fail. Divorce rates are higher for second than for first marriages.
- b) Church and community must provide more supportive social/affective resources to provide the divorced and unmarried with much of what society (wrongly) tells them only marriage can provide.
- c) Throwing oneself into ministry/vocation can for many be in the long run more satisfying than seeking community with a second marital partner.

These are good reasons for a stranded person not to go husband-hunting or wife-hunting again. But do they count as grounds to forbid any remarriage? If not, why not, and in what cases? The next paragraphs carry that search one step farther.

To ask what is the case for remarriage, in the light of the view of things expositied hitherto in this text, obviously will demand that we look for criteria that take account of the reality of the first union. If a second marriage is morally appropriate, it would be under the terms/conditions under which bigamy would be acceptable. The case for another marriage cannot be made on the grounds of the claim that the first union is gone.

Western cultural has been dominated by the legal view according to which by definition bigamy cannot exist. Thus the question we are trying to answer is held not to exist. It has been held that the second marriage could not exist, did not exist legally even if being lived in common law, or that since the first marriage no longer exists, there is no problem with the second. Thus the reality of plural marriage could not be thought about.

Once the problem has been thus restated, and we are open in principle to asking how a second marriage could be justified, it is not easy to see how that justification could be delivered. The elements it would take for a second union to be valid and viable are multiple. The likelihood of meeting all the requirements is geometrically greater as three individuals or four need to be part of a valid inter-relationship instead of just two.

When I use the term "requirements," this is not meant in a legalistic sense as needing to live up to the demands of the letter of a legal document which was promulgated or legislated in one wording and could have been decreed in some other formulation. I seek rather to recognize what it means for a marriage to be able to live. The requirement that you must eat and breathe if you are to stay alive physically is not legalistic but constitutive, natural, gracious. For a normal and normative monogamy to live up to its potential, to keep its promises and fulfill its duties, one will normally need all of the following things:

a) Marriage has the burden of proof. No one should marry unless there is a positive reason to marry. Celibacy is the first state of every person, and one should remain in that state until there are specific reasons to establish a union. The seriousness of marital union should be accentuated in such a way as to avoid people hastening or fleeing into marriage because of the notion that it is a norm or that it would solve problems for them. Romantic attraction itself is not an adequate reason for marriage. Neither is proving one's adulthood, or finding moral support, overcoming loneliness, or getting away from one's parents. This has been argued at length in my earlier document on singleness.

b) A marital union requires a social location. Most naturally the two partners live under one roof. There can be exceptions dictated by vocational or other duties, but they make it much harder and

should be very rare. Traditionally, common social location meant that the two partners used the same family name. In recent years alternatives patterns of naming have been developed, for reasons which are more convincing to feminists than they are to genealogists or to mail carriers.

c) Traditionally, social location called also for ceremonial recognition, affirming and usually celebrating the now established union. In our society this has tended to be done with two dimensions, in some cultures even distinct ceremonies: one religious and one civil. A marriage is real without such a celebration. Even if no legal formalities are carried out, the rights of children and of mates separated later on can appeal to "common law" to say that something of the legal reality exists even without the formalities. In a similar sense, moral theology, though affirming the value of the public ceremony, insists that neither the reality nor the morality under God of the marital unity is dependent upon the ceremony. Nonetheless a morally valid relationship needs to ask for and to receive recognition by the surrounding society.

d) Marriage requires an agreed understanding with regard to the place of sexual intercourse. The age-old norm has been monogamous permanent fidelity. That standard is still respected pro forma in our civil culture, but not in our entertainment media. Even when the rule is broken by the formalities and the euphemisms which are used to explain exceptions, the fact that they are considered "exceptions" pays lip service to the rule.

Legal divorce, understood as permitting a legal remarriage, decrees that instead of concurrent plural unions the persons are considered to be involved in more than one monogamy end to end. During each period of marriage the obligations of faithfulness are still supposed to obtain. I note that in order to make an exception to the requirement of permanent monogamy, these procedures reinforce the importance of the ceremonies which formalize the end of one and the beginning of the next.

Another adjustment has been a greater readiness in our society to accept that, at the time of marriage, the partner to whom one pledges now to be faithful may bear in his or her body and spirit the marks of past unions which were or were not called marriage, as long as those relationships are in the past.

There may be growing readiness in our age to accept or to forgive if one's partner is temporarily unfaithful, as long as the partner comes back and is not deeply attached to the other person.

What do these changes mean? If our concern were to ask about the minimal definition of monogamy out on the edges of what can be permitted, we would have to grant that these cultural changes have the effect of loosening up the definitions and the standards, in our society at large. If on the other hand what we are concerned about is defining the reality at its center, rather than from out at the edges where it can be held no longer to obtain, none of these patterns of softening

rigor denies the original center.

e) There need to be common attitudinal commitments: affection, tenderness, thoughtfulness, readiness to resolve problems together.

f) There should be common cultural values: similar tastes in music, recreation, in religion, overlapping circles of friendship.

g) Traditionally in our time it has been held that there must be romantic love. Historically this is false. Until modern times there was no idea that romantic love was a normative component of marriage. In fact, in its medieval origins romantic love was originally extramarital or celibate. Recently romantic "love" has come to be seen as a requisite for marriage, so that, for some:

1) They sometimes consider it a sufficient primary positive criterion: if you are in love you should marry;

2) They sometimes consider it the primary negative criterion: if you are no longer in love you should terminate a marriage.

From a biblical or moral perspective romance cannot be a requirement. Yet in view of the social power of this rhetoric, and the psychodynamic perspectives it makes us sensitive to, there would need to be some definition of what feelings the partners bring to a relationship.

h) There needs to be a temporal perspective. The original commitment was, "until death do us part." Only some commitment to future faithfulness makes sense out of belonging together in the present. If one has not committed one's future, even one's long-range future, one's unforeseeable future to the new union, more credibly than was the case for the previous one, the commitment may not be adequate. This is not first of all a legal requirement. It is an ontological requirement: i.e., one rooted in the very nature of being human. It is also a psychological requirement. The notion that a union need not be permanent if it turns out to be difficult makes room for people to run away from problems instead of resolving them.

X HOW THESE CRITERIA MIGHT WORK

To speak of these marks of a proper marriage as "requirements" does not mean that their validity depends upon the legal system or that their claims are of that kind. They are the shape of grace. I reported each of them as being subject to flexing and bending in modern times. I do not list them as determining the outside edge of where marriage ceases to be valid. That is the wrong way to think morally. In any set of descriptive tools or guides for decision which include more than one criterion, it is a very complex matter and often a distracting exercise, to concentrate attention on

what would constitute a clear in-or-out judgment at the fringes of the reality.

If we know that these characteristics a)-h) (the reader should be free to add and/or to rephrase one or another) still represent the healthy core of the Jewish and Christian vision of marriage, . . .

and if we believe that this vision is not seriously undercut but rather strengthened, redefined, and supported from another side by secular wisdom, . . .

then this outline may guide us as we ask, in a specific context, what would be needed for a multiple union to make moral sense. It will need to make sense at the heart of the relationship, by resembling as much as possible an ordinary monogamous union. It would be wrong to be satisfied to make room for legitimate extreme-case remarriages out on the legalistic edge, as being "not strictly forbidden" or "not sinful" by rigorous standards.

We need then to ask what would ideally make a second marriage wholesome and desirable, by looking closer at each of the above marks.

Marriage has the burden of the proof. Why not remain single (i.e., in this case remain divorced)? Be sure (as one should have been sure the first time) that one is not marrying for the unworthy reasons listed above. These unworthy reasons take special, especially wrong forms, for the divorced:

a) There is the ricochet effect, bouncing from lost security to new commitment without coming to terms with the real loss of the first union;

b) There is the desire to prove that one is not a failure, to demonstrate to others and to oneself that one can do the next time around what one had failed to do: that one's inadequacies can be overcome by "another chance";

c) There is the syllogism of blame: since the breach of the first union was not my fault, therefore I need only to find a different partner, who will not have the faults which caused the past failure.

The fact of the past union(s) must be affirmed, not ignored or denied. I described this reality above as "ontological," i.e., as a reality which is both concrete and absolute. The phrase "one flesh," which reaches from Genesis to Jesus and Paul, describes a reality. Not being the product of a legal formality, it cannot be dissolved either by a legal document or a court procedure. Not being a psychic inclination, it cannot be dissolved by "falling out of love" or by counseling.

The reason for accepting this "realist" or "ontological" view is not "biblicistic"; i.e., not just because it is in the Bible, or because we would be slavishly bound to think as the Bible does. Either to affirm that view, or to attribute it to me in order to reject my view of reality, would be a form of fundamentalism. The ontological view is supported by social science, by counseling insights, and by nonfundamentalist theology.

Then a second marriage which would deny the first would be on shaky grounds. A second courtship based on "bad mouthing" the absent first partner is worse than deceiving one's new friend about one's genetics, one's health, one's finances, or one's family.

What is said here about "second marriage" applies (by virtue of the ontology previously explained) not only to persons legally married and then divorced. It also applies to persons who come to a marriage bearing from their past the meaning of other kinds of past flawed unions:

- a) being the victim or the perpetrator of rape or incest;
- b) premarital affairs, limited-time cohabitation or youthful promiscuity.

XI TEST CASES

The best way to concretize how, under the understandings stated above, a second union might make sense, will be to look at two true stories, with the names changed.

A) The first spouse accepts the second

Susan married James, first in common law and then legally, when he was on the run from the law and needed compassionate company. To do so she stretched her loyalty to her faith community and to her polite cultural origins. As they settled into his Appalachian culture, with a more settled legal situation, no longer on the run from the law, it was increasingly clear to both of them that her identity as a peace church Christian did not contribute to him what he knew an Appalachian housewife should. Without hatred or recrimination, they separated and divorced. She went back to school and got a university job. They share with good mutuality the parenting of their daughter, without trying to pull her apart. Susan knows and likes James' new girlfriend and wishes she and James would marry.

If Susan had asked me about running off with James, I would have advised against it, but she had not asked me. It was already done when we next met. At that point I did not urge her to abandon him, or to betray him to the police, but to solidify and if possible legalize their union, confirmed by then by much shared suffering and shared friends. Then for years we were out of touch again.

Had we been in touch at the time, I would not have supported their separation nor his taking another woman. Yet once that had all happened, and Susan again contacted me (when she went back to school), I could not advise her to pursue James with any hope of restoring their original monogamy. It seemed right to me that her acceptance of James' remarrying is better than her denying it. It is better for James to solemnize his second marriage than to keep it common law. So now ontologically or "in God's eyes" James has two wives. With the second one he lives. With the first he shares the parenting of a daughter who loves both parents, and is not torn between them. He loves both wives, in different ways.

B) The abandoned spouse forgives her supplanter

Marian was more gifted, more educated, and more spiritually committed than Jeff, but they thought their common enjoyment of church youth work would hold them together. He was surprised, after the marriage, to find himself resenting her giftedness and her health problems. He began an affair with a girl from the church youth group, whom (after years of denial, then distance before divorcing) he finally married. Marian finds challenge and fulfillment in a unique and very effective Christian ministry, but her health problems make living and serving alone difficult. Would she be free to marry an older single man who would rejoice to be able to support her ministry?

I told her that the legalistic evangelical argument that the "innocent party" freed by the partner's adultery to remarry is biblically impossible; not for the (usually given wise pastoral psychological) reason that no party is truly innocent, but because the ontology of marriage cannot be revoked by sinning against it. Marian told me that she has forgiven Jeff and his second wife, and has told them so, despite their not being "repentant" in the strict sense. She is glad the second wife could give Jeff children, as Marian could not.

In this encounter remarriage cannot be approved in the taken-for-grantedly natural/obvious way, as the legal/permissive view would do it. Neither can I simply forbid it, as the traditional view would. Marian's affirmation of Jeff's second marriage, and her new friend's affirmation of her first one would seem to be the keys. The new friend would need to share in Marian's continuing love for Jeff and his wife. He would need to marry her affirming, not denying, her past history. This still leaves open the other questions (vocational, medical) about whether they ought to marry.

C) In each of these cases, my accepting the fact of the second marriage does not deny the bases for generally supporting the traditional disapproval of second marriages. In the two real cases, each came about in a setting where my approval was not requested at the point of decision. In neither case is romance, love, sexual need or self-fulfillment the reason. In each case the "burden of proof" is borne by considerations of ministry and social utility.

Susan did not plan to remarry. I think she should not. [Since 1986 when the above was drafted, I have no news from her.] What she did, that is prima facie against the tradition, and that I am suggesting was right, was that she said that James' second union, which already was real, was acceptable and should be legalized.

If Marian does remarry [since 1986 she did], it will be [it was] only after months (or more likely years) of prayerful betrothal will have confirmed that the second union has nothing in common with the "revolving door" or "ricochet" patterns that dominate our culture, and occurs only within the affirmation of the abiding reality of her caring for and being bonded historically to Jeff.

Of the six persons with whom I have had any exchange at all on these matters, these are the two cases I can affirm. Two other friends have remarried and have already abandoned the second marriage, thus freeing me from any pressure to approve it. Two others have remarried without my being involved in the process or being convinced that their reasons at the time were adequate. I support their present marriages, now that they have been concluded with the blessing of church leaders who did not share my doubts, without my knowing or wanting to know anything about the justifications in terms of "burden of proof" or my affirming the reality of the prior union. I confirm my continuing friendship toward them, and my abiding openness to see more reasons given for the rightness of what they did, but for now I accept it as I "accepted" years ago Susan's having gone off with a fugitive, or as I accept that my interlocutors or university colleagues are not pacifist.

XII A SIDE GLANCE AT DENOMINATIONAL SELF CONFIDENCE PROBLEMS

A special word of analysis is appropriate regarding the way in which the question of remarriage after divorce has been resolved within the last generation in most North American Mennonite churches. The original position was firm, and was held to by a practically unanimous consensus. It forbade any remarriage, on the grounds which above are designated as "legal." The structures of conference and congregational discipline were, at least until World War II, and still more recently in many circles, sufficiently firm in the application that this standard was rather effectively applied. Remarried persons interested in church membership were advised to seek fellowship in another denomination. Remarriage of separated and divorced persons whose first spouse was still alive could not be solemnized by pastors or congregations. This was not a distinctive Mennonite position. It was the universal Christian tradition; Mennonites just held on to it more strongly than some.

As it became more clear that a more liberal pattern was becoming dominant in the pastoral and church planting practice of the mainline denominations and mainline evangelical movements, this strong Mennonite position came under pressure. The mainline Protestant denominations explained their greater flexibility in terms which were at home in the framework of theological and moral liberalism: they spoke of pastoral flexibility, of forgiveness or being redemptive, and

of non-directiveness. They did not generally sense a need to work through the details or the gaps of the sparse New Testament teachings on divorce. They would have little patience with the careful argument (conceptual, scriptural) laid out above, since their view of past Mennonite biblicism is that it had forfeited its credibility.

Evangelical churches, being more missionary than Mennonites, were more rapidly forced to deal with this phenomenon, as they won to their churches more people who were already in their second marriage. Because of their evangelistic commitment they could not be satisfied with the older Mennonite pattern of sending converts to another denomination. They did have to care about the biblical material, so they tended to make much of the "exception clause" and the possibility of determining that in given cases the specific person was "the innocent partner." Or they would consider Jesus' firm position against divorce to be, like the other strong statements of positions of Matt 5, a counsel of perfection or a provision for life in another age, which cannot be made a basis for discipline in this generation.

Mennonites could not take either the liberal permissive path or the evangelical legalistic one. Neither could be explained in terms that would mesh with earlier commitments. Whenever the theme of remarriage was studied in the conferences until the 1960's, the conclusions reached were, naturally, generally conservative. Yet this did not make the question go away or provide a new resolution. In the 1960's individual congregations began making their own adjustments. Often it was done first in congregations that were understood as "missions," with their greater need to be open to take in new people as they were. Gradually this openness spread to older and large congregations, when they needed to deal with some member in good standing upon whom, in pastoral sensitivity and realism, they did not see themselves able to impose the old rules. Yet this took place only informally, under the table. If there was open process, it was in one local church at a time.

Conservatives suspected (with some reason) that they were simply losing a political battle against the forces of acculturation, without doctrinal argument or due church process. This suspicion was heightened by the fact that there ceased to be discussion on the level of conferences or publications. The older assumptions about denomination-wide unity were no longer convincing. This coincided with the time when district conferences, bishops and overseers were losing the authority that they had previously been assigned in Mennonite polity. The people on the winning side, those who were personally in favor of generally less discipline, or of generally less church authority, or of a more accepting attitude toward remarried persons, did not try to avoid allying themselves with the forces of decentralization, or discrediting older discipline patterns, by introducing their views in contexts which would legitimate them. A para-church institution like the Laurelville conference center could begin to convene retreats for divorced people at which one of the things that could happen would be finding new partners. Thus a general loosening of older discipline patterns took place, to cover a change in normative pastoral guidelines, without any denominational process beyond the congregation being needed, and often without the congregation's process needing to be formal. One merely stopped enforcing the

old rules, and let things take their course.

One further component of the shift is the way written materials could be used to say what they did not intend to say. During this period, the most thorough treatments of the matter of remarriage in the publications of Herald Press were books by John W. Miller and John R. Martin. Each of them laid out, in the bulk of his book, a theological understanding of the permanence of marriage which was by that time more conservative than the practice of urban Mennonite churches. Each of them did however make a tiny exception, in just a few pages, not argued in such a way as to sustain ethically a case for openness in principle to remarriage on demand, with ethical arguments prevailing against the major thrust of their books. They rather followed a pastoral or political line inserted alongside the main argument, in the recognition that the main argument did not speak adequately to that problem. Each author admitted this exception under the heading of "pastoral counseling" rather than that of normative ethics.

Martin's decisive criterion (see below) is whether the person had truly experienced forgiveness for the sin involved in the earlier divorce. Miller gave fewer indications of what would count as criteria in the counseling process. One might surmise from the rest of his book that it would have to do with an effort to determine to what extent the earlier union had been psychologically authentic or defective. What draws our attention right now is not the substance of the case made by Martin and by Miller, marginally, hesitantly, for pastorally approving a rare remarriage, but the fact that, thanks to this inclusion of a few pages authorizing an exception, the social impact of the publication of these two books by the Mennonite press was not that of the bulk of the book, whose theological understanding made no real room for remarriage on demand, which is the actual usage out there, but that of the few pages which granted one exception after all. [This "political" assessment will be followed below by reviewing the actual arguments]

This is why I have written above about the "political" dimensions of the situation rather than of fundamental moral arguments, and have described "winning" or "losing" in terms of style, not of truth. In contrast to the structures of two generations ago, Mennonite pastoral policies in matters as important as the meaning of marriage are being resolved through very fluid and unstructured processes of terrain shift, rather than by overt procedures of discernment, debate, and scripture study.

XIII PARALLEL REASONING

There are three easily visible specimens of this same kind of reasoning, which affirms theologically the permanence of marriage and reject in principle all easy remarriage, yet does make some room for remarriage under special restrictions.

A) John W. Miller's Christian View of Sexuality (1973) supports in principle the view here called "realist" although in slightly different ways. With reference to persons already involved in more than one union, he does leave room for either accepting the second marriage or restoring the first (but not both).

B) John R. Martin's Divorce and Remarriage; a Perspective for Counseling (1974) likewise affirms theologically that marriage is indissoluble, yet makes room (pp 111ff) for a counseling process which would accept remarriage.

C) Marva Dawn (now PhD), a Missouri Synod Lutheran teacher, wrote an article following up her teaching role at a Laurelville retreat for "formerly-marrieds" in 1985. This retreat was a regular part of the Laurelville program, and was one of the first places within the denomination where the case for remarriage was largely assumed to have been made. Not being Mennonite (although she had been for some time an associate member of a Mennonite congregation, and therefore could speak sympathetically), Marva was freer to question that assumption, and followed up the meeting with a Gospel Herald article making the same points. Yet in order not to be "harsh," she also left room for a pastoral discerning process, which in some circumstances might exceptionally justify remarriage. She asked the parties to ask themselves several questions:

- a) Are the Scriptures the authority for your life?
- b) Do you want to model for young people the vision of the permanence of marriage ?
- c) Have you sought reconciliation with your spouse? forgiven him/her? Are you sure your wanting another mate is not a rebound or escape from unresolved feelings about the first union? Is the second friend willing to affirm that the former union is still there?
- d) How can you best serve the Kingdom of God?
- e) How can your life best mirror God's grace?
- f) What is best for your children?
- g) How can you best serve your Christian community?

I shall return later to the above books, with a more special focus. I agree to the pastoral concern of the above three authors for flexibility and for caring concern for need, which leads them personally, while holding a basically conservative view of indissolubility, to accept remarriage after all as a possibility. Yet I would hold that to root the entire process in the ontology of "one flesh" would be more accountable, and more in tune with psychological realities, than to leave it to these more vague kinds of "counseling."

XIV PASTORAL SUMMATION

The strength of the position portrayed above is that it takes the indissolubility of marriage so seriously as to affirm the reality, "before God" and in the psyche, of more than one marital union at the same time; i.e., of real bigamy or polygamy, regardless of what the outward legal or social situation seems to be. This permits continuing to affirm the moral reality of the first commitment (which the conservative approaches in the past tried to do) at the same time that it retains freedom to begin where we are with a given remarried couple (as the more "liberal" want to do), without seeking to destroy the later union. The pastoral flexibility which would result from this approach is however a secondary reason in its favor. The real argument for the position is that, like Jesus, it affirms indissolubility more solidly than any other approach. Nonetheless it is fitting to turn now to the questions raised by concrete contemporary pastoral application.

A. Careful adjustment to the remarriage issue

Adjustment to specific pastoral cases would need to learn (1) to do more with the difference between what can be forgiven and what can be permitted. In a casuistic situation, i.e., in the effort to apply all the general principles and perspectives which are pertinent to a given concrete decision case, that difference is not easily sensed. This difficulty in distinguishing the forgivable from the permissible is especially evident in a puritan (or post-puritan) social scene, where the moral teaching of the church is used to give guidance to a wider legal culture, whose sanctions are not always redemptive. What "you can get away with" and what is "proper" tend to be identified. Then if a deed can be forgiven, it was all right to do.

We must identify as a special problem (2) the adjustment we make to the fallen situation of the churches in which there has been wrong teaching, or the simple absence of right teaching, or lack of moral courage about facing hard truths, so that many people have come to perceive the moral issues in a false light or do not perceive them at the right place. One example of this is simple ignorance with regard to the meaning and place of the teachings of Jesus. Another is the "ex-Amish" or "post-puritan" reactionary permissiveness which assumes that to have any principles is to be hard on people, so that the only way to loving or caring is to do away with principles.

Yet another example of disinformation is the prevalence of certain specific modern notions about the place of romantic love or of tenderness in the definition of marriage, or that the validity of a marriage commitment is dependent upon the persistence of committed feelings. This concern for feelings, love and affection is better than a total inattention to or denial of what the emotional dimensions of proper or ideal marriage would be; but that does not justify making the absence of tenderness into a sign that a marriage no longer is binding. This is but one of the places where a mood of non-conformity and culture-critical perspective needs to be recovered. False teaching like this can bring it about that in a given situation there is no available really satisfactory

solution to a specific "pastoral" dilemma.

If we once assume that the teachings of Jesus matter, there needs to be (3) more attention to casuistic concern for the border between a union which is real but so seriously defective that it cannot or should not be "saved," and one which despite weaknesses constitutes a full moral obligation. In this connection one place to take readings will be the specific anthropological/cultural setting. I.e., in different settings different people may draw that line at different places and use different indices to identify it. This question demands a search to identify how many different touchstones there are, beside the simple one of actual physical relations, to determine at what point the reality of a marriage constitutes a permanent moral obligation. Numerous such indices were suggested above (in XIII/C by M. Dawn, or in my section IX above); how much each of them weighs may vary from one setting to another.

Most discussion of this issue neglects (4) the support which church and community owe to single people. The modern idea that a single person is somehow unfulfilled, unbalanced, unwanted needs to be attacked as an idea and undermined in practice. There should be patterns of community relations in which single persons (whether divorced or never married) would be "at home" as part of a wider "family," and would be recognized for their special contribution. If such resources were available to single persons, there would be fewer "bad marriages," and the divorced would be helped to live without overwhelming pressures toward remarriage.

There is something wrong (5) when we fail to place in the baptism covenant, or in the catechesis of the Christian community, a recognition that the fact that the decision to marry is the business of the brotherhood. Persons of an age to be requesting baptism should be fully capable of thinking about this kind of issue at the point where they make the commitments of church membership. If candidates for baptism would feel that it is too much for the church to ask that they commit themselves to consult the church about courtship, then this is a very concrete way of saying that they do not want to be disciples of Jesus Christ together with this fellowship of believers, concerning one of life's biggest commitments. That desire not to be a disciple should be respected, by not baptizing them.

We need (6) to pursue the pastoral problems posed by divorce issues on the level of "politics" as well as on that of principle.

We need (7) to reason more critically about the difference between forgiving and approving. Two specimen efforts, Mennonite publications of a decade ago, already referred to above because of a degree of practical agreement, exemplify well the difficulty of dealing with the above issues, especially the interface of forgiveness and approbation. Both [A Christian Approach to Sexuality](#) by John W. Miller (Herald 1973) and [Divorce and Remarriage](#) by John R. Martin (Herald 1974) take their point of departure from their reaffirmation, as a matter of biblical and historical responsibility, that in the light of the divine gift of lifelong monogamous unity in

covenant there can be no dissolving of a first union and therefore no legitimate second one. They make this reaffirmation against the stream of the trends in our culture.

Yet both authors desire to be pastorally understanding, to keep in touch with people, and to avoid legalism. Each therefore makes room for an exception. Yet they do not do it on the grounds of an appeal to the "exception clause" in Matthew, nor by the kind of indirect "annulment" technique, used sparingly by the Catholic churches and loosely by modern courts, namely claiming to find grounds for saying that the marriage is nonexistent.

I have no way of knowing, in the 1990's, whether the material I cite from the twenty-year-old books by Miller and Martin represents their last thoughts on the subject. I cite them not as their personal convictions but by virtue of their landmark status then as publication of the denominational press.

John Martin uses the concept of forgiveness, to which he gives a more sweeping meaning than it ordinarily has. In addition to the failings and sins which in the first place made a marriage hard or apparently impossible to maintain, the act of formal separation is a sin, says Martin, and the act of divorce is another (p.39). Yet it is something the church can in extreme circumstances authorize.

"Will God forgive this sin? Yes, but forgiveness must be internalized to be personal and meaningful . . . a second marriage could thus be formed. The individual would need prayerful preparation giving attention to areas of need contributing to the failure of the first marriage. He would need a personal sense of forgiveness toward his spouse and himself."

Forgiveness is thus being thought of here not so much as doing away with an objective guilty status before God, or between one estranged partner and the other, but as a subjective experience or event whose validity is that it is "internalized" by the person who had committed the sin. Once one has thus appropriated forgiveness, the former marriage is no longer binding. Yet nothing in Martin's earlier exposition of the biblical understanding of marriage had made room for the concept that its obligations could be wiped away by the fact that sins against them are "forgiven."

Miller's text had stated the insolubility of marriage more firmly than Martin. In addition to the biblical texts and Mennonite tradition, Miller supports his realism with cross-references to psychological and social sciences. In dealing with difficult real cases he however also makes an adjustment. Under the label "counseling," which he says is based on "wisdom" in contrast with "legalism" guided by law, Miller sets out the context in which it would be appropriate after all to make the most of an existing second marriage, without denying the real continuing existence before God of the first one, but needing to work directly at dismantling its memories and its claims on the remarried spouse.

The definition given for "counseling" accentuates the intensity of caring and getting informed: it is an approach that

"sympathetically and realistically gets all the facts, and advises contextually in the light of them . . . One must look into lives, discern experiences, and work out solutions in the face of specific circumstances."

Yet all of that is also what the permissive and legal approaches were trying to do. This description does not indicate what criteria Miller's "counselor" will use, nor on what grounds one would while "counseling" conclude that this time one should "advise contextually" in favor of remarriage and when not.

Miller differs from Martin, in that he makes no provision (in the text) for approving of entering a second marriage, legally and with the blessing of the church, while the first marriage exists. Miller's argument as written applies only to ratifying, only in cases "discerned" as appropriate, and then seeking to save and make wholesome and livable the present legal (second) marriage in which a couple are already living. In fact, his approach if followed consistently might in some other cases "advise contextually" against maintaining the second marriage, and in that case might call for restoration of the first union.

Miller uses the phrase from the book of Common Prayer, "forsaking all others," to say that just as, if it is possible to restore the first marriage, then the second marriage should be rejected even if it has been made legal and been blessed with children, so too if the second marriage is viable and the first can no longer be reconstituted, then memories of and relations to the first spouse should be actively blotted out. It is at this point that Miller seems to contradict his earlier realism about the nature of the marriage bond. The poetry of the Book of Common Prayer does not as far as I can see suffice to make it imperative or possible to "forsake" one's first union, any more than "forgiveness" of one's sins against it can wipe it away. In biblical realism one may wrongfully set beside one's first marriage a second union (or more) and be objectively in a state of bigamy or polygamy. The first unity does not thereby go away. It cannot be "forsaken," though one, of course, can continue to sin against it.

If now in our frame of reference we are to take a forward step and ask on what basis there can be any moral accountability in establishing a second union (in the sense that a church or counselor could approve of it before it happened, a very different matter from making do with it once it has happened), this could only be admitted if coupled with the affirmation that the first bond is real, not only psychically but morally and in the eyes of God.

The difference between Miller's case "counsel" and my interpretation proposed above is the way Miller's conviction, that there can be only one real marriage, creates an obligation to destroy the other(s) when more than one exists. Therefore he has to decide on the base of a counselor's wise

discernment which one to affirm and which one(s) to deny. That approach could call for destroying a present (second, legal) marriage, on the grounds that the first was still viable and that the (legal) divorce which terminated it was not morally valid. In the case where the reconstitution of the first bond is no longer viable, Miller would agree, as second best, to try to make the most of the present second (legal) marriage, but then this would imply doing everything possible to break away from any vestiges of the first marriage ("forsaking all others," in the words of the prayer book), even though Miller's basic realism had initially made much of the permanence of that first union.

Miller is driven to this choice by the conviction that it is impossible to affirm the real existence of two marriages at once. This essential/legal assumption is so firm for him that he does not even recognize that it would need to be argued. The only support he suggests for it is the poetry of the marriage service of the Anglican prayer book. Historically it is most doubtful that for the authors of that order the "forsaking others" intended any reference to other marriage partners. There could not have been; for Anglican theology until very recently did not admit that there could be such a thing as another real marriage at the same time.

I agree with John Miller and Jesus that the original moral imperative is monogamy. That does not mean that when two marriages have been really constituted it is possible, or morally permissible, through a legal fiction or a counseling process, to decree one of them nonexistent.

B. Adjustment to the mainstream agenda

The above discussion has proceeded very carefully within the main lines of that classical Christian tradition. Thereby it may very well look out-of-date, oddly traditional, to people who have long since adjusted to the permissiveness of our culture. These contemporaries see any doubts about infringing on the tradition's disapproval of divorce as hopelessly "out of it." I do therefore need to distinguish between the position explicated above, which means to be Gospel, i.e., good news, and the bad news which so many have thought they heard from the tradition.

What the biblical and classical vision calls good news is the commitment of God and the believing community to enable people to live supportively, in complementarity, in lifelong faithfulness. This is possible, as it has been for millennia, because this vision does not ask/expect/demand self-centered satisfaction for both partners all the time. But our contemporaries, in Western Europe and the North American world, have bought into the idea that all of life owes me happiness: the world owes it to me to provide me happiness, and if the commitments I enter into do not pay off, I am released from them.

From that perspective, the exclusion of divorce is an uncharitable rigor, which enjoys being hard on people. It is seen as fitting with the "puritan" image of morality as bad rather than good news.

Then the acceptance of divorce is an expression of concern, flexibility, adaptability, creativity. In the face of this view of things, I need to ward off some misinterpretations.

1) The center of what is wrong is not divorce. Divorce marks the legal acceptance of the breakdown of a marriage. The breakdown is not what was wrong. What was wrong was the long series of small steps, some unconscious, some taken with some slight awareness that one was not doing the best, which finally led the people to grow apart. The real errors were made, usually, long before:

a) entering the marriage in the first place under the understanding (counter to the pledges formally made in the ceremony) that if it did not go well one could always give up;

b) buying into the general bourgeois vision that the world owes it to me to make me happy, and that the reason for moral obligation is that it pays off in personal rewards;

c) taking romantic love as the justification and validation of the marriage commitment, which is revocable when the rewards wear out.

That was the basic set of mistakes. Then whether it broke down through the steady erosion of two people's incompatible styles grating on each other, or through one of them being attracted after a while to a new "romance" elsewhere, the breakdown is the result of having begun on an inadequate foundation.

Once that has happened, I fully agree with the counselors who see the need to avoid being judgmental. There is nothing wrong with making legal a separation which has already happened. What is questionable is in what frame of reference that help is provided. Is it done in such a way as to reinforce the wrong understandings and attitudes which made things go badly in the first place? Or are there elements of learning, repentance, which can bring grace into or out of the tragedy? Does the process of interpretation/counseling hold open the possibility of redemption/reconciliation, or does it slam the door on that option by suggesting that there is something virtuous about the counselees's decision, and thereby box the parties into justifying their giving up?

The claim obviously needs testing with the experience of persons doing counseling from the various "school" perspectives; but to begin with I do not grant that anything about the "biblical/realist" perspective stands in the way of the most gentle and supportive kind of counseling. The affirmation of the real existence "in God's eyes" of the first union, and the great (though not absolute) reticence about possible remarriage, are just what is needed if spouses and counselors are to face and process all of the reality of what had happened to the marriage so far.

Either the notion that the former union could be wiped away or the notion that a quick ricochet into remarriage would be a solution would be bad counseling, whatever be the therapeutic school. There is no conflict between biblical realism and wise counseling. There are real differences between puritan moralizing and both of the above, precisely at the point where the puritan view assumes and reinforces the legal and essential approaches which we saw open up those two deceptive notions.

XV A CONCRETE CASE OF APPLICATION

The April 1986 draft report of a study process carried on by First Mennonite Church of Indianapolis listed the following questions to be considered in counseling with persons, one of them divorced, contemplating marriage:

- 1) Is there a genuine desire to discern God's will within the context of brotherly and sisterly counsel?
- 2) Is there an openness to share his or her relevant past experiences, attitudes and beliefs regarding his or her marriage?
- 3) Has there been confession of and forgiveness of his or her share of responsibility for the marriage that failed?
- 4) Have all the opportunities of reconciliation with the former spouse been exhausted, and have several years' time been allowed for this to happen, if the former spouse has not remarried?
- 5) Have all moral and legal responsibilities to his or her former spouse and children been met?
- 6) Has singleness been considered as a valid and proper path for the future?
- 7) Has serious consideration been given to the attitudes of his or her children (if any), other close relatives, and close friends, who would have a concern or interest in the matter?
- 8) Has she or he examined carefully, with the assistance of a counselor, pastor, elder or a small group, whether her or his skills and abilities are likely to yield success in a new marriage?

9) Has he or she received counsel on the probability of a successful marriage with the intended spouse?

10) Is there an understanding that the agape love covenant of a Christian marriage is not a legal contract that depends solely on the performance of the other party, but is an unconditional commitment to the welfare of the partners, as long as they both live?

11) Is there an openness to establish and maintain a continuing relationship with the pastor(s) and a small support group of fellow Christians who can be resources for counsel and help in the future?

This checklist is the product of careful study and wise counsel. Numerous of its provisions have to do with wise means for processing issues, rather than with detailed understandings on the moral level. That is as it should be. Its background understandings as to the moral status of the prior union of the divorced person are not stated precisely, but are given careful attention. There is no simple "essentialist" rejection of the first union as broken.

There are however some points to criticize, such as:

- Giving up on the prior union at the point of the other partner's remarriage: the new marriage of the other partner is not sure to last long. Several of us know of persons who within three years had ended the second union and wanted to restore the first one.

- The "responsibilities" to the former spouse or children (paragraph 5) are not specified; are they to be left to individuals' claims or insights? Or are they knowable in some standard way?

- Are the "attitudes" of others (paragraph 7) purely dependent on however they happen to feel, or do they have some precise grounds and criteria?

Behind this is the more basic question. Behind its wise sensitivity as to process, this text avoids avowing any normative base. Do we believe, or do we deny, that before God the prior union exists in some real sense, so that its claims on the separated partners are based not only in the memories and needs of the parties but also in the nature of reality? If the answer to that question is negative, then the concern of the counseling process for respectfully processing the legacy of the past might not always be necessary. If on the other hand the answer is "yes," it would have made for greater clarity if the Indianapolis text had stated that affirmation more firmly. An earlier point in the study group's report, where the interplay of permanence and divorce were dealt with (sections VA and VI, not cited here) maintained the same ambivalence. It finally explains the acquiescence in divorce on the basis not of ethical argument but of the example of other Christian denominations.