

**DOUBLE STANDARDS?  
DIVORCE AND REMARRIAGE IN LIGHT OF DISCUSSION ON SAME SEX RELATIONSHIPS  
IN THE ANGLICAN CHURCH IN AOTEAROA, NEW ZEALAND AND POLYNESIA**

**A Latimer Paper prepared by Rev. Chris Spark<sup>1</sup>**

## **INTRODUCTION**

The issue of the remarriage of divorcees, and changes made to our understanding of this issue in the Anglican Church in Aotearoa, New Zealand and Polynesia (ACANZP), has often been raised in recent discussions of same-sex sexual relationships. A number of commenters seem to see these two issues as basically parallel, and some have strongly questioned conservative/traditionalist<sup>2</sup> approaches to same sex marriage and blessings on the grounds that there seems to be a serious double standard in play. In essence, these commenters are saying ‘we live with (at least) two different convictions on the remarriage of divorced people, so why can’t we live with two different convictions on same sex activity?’

At one level this is a complex problem – it involves, in the first instance, careful consideration of what Scripture has to say about remarriage of divorcees, and how that relates to changes made in this area in ACANZP. This then needs to be compared to the question of same sex relationships in Scripture and in our church. And as we do all this, we must constantly remember that as we talk about ‘issues’ we are not just talking about issues at all, but about real people and their relationships, in both areas under discussion. At the same time, these issues have shown themselves to be too important to be shied away from, and the question about double standards needs to be taken seriously.

This article is therefore an attempt to deal with the question by focussing on divorce and remarriage in order to seek clarity on that issue, so that we might in turn see how it relates to same sex issues. First we will look carefully (albeit briefly) at what the Scriptures state with regard to divorce via key texts in the Gospels and 1 Corinthians. We will then consider our church’s changes in practice regarding divorce and remarriage in the last century or so, and how this relates to the Scriptural picture. Finally we will draw conclusions by relating our findings to issues around same-sex marriage and blessings.

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<sup>2</sup> I dislike almost every term used to describe this position (which I hold), as they all seem to me to have undesirable connotations in one way or another. But we need to name this position somehow, and these terms are probably recognisable to most.

## DIVORCE AND REMARRIAGE IN THE NEW TESTAMENT

### *Jesus' words in the Gospels*

The key texts regarding divorce in the Gospels, and probably the key texts in the church's historical thinking on divorce, are words Jesus speaks in Matthew 5:31-32, Matthew 19:3-9, Mark 10:2-12 and Luke 16:18.

The vital issue that is raised by these texts is that in Mark and Luke no exceptions are mentioned in Jesus' words against remarriage of divorcees, but in both Matthew passages exceptions are given.

#### **Matthew 5:31-32 (NIV 2011)**

<sup>31</sup> "It has been said, 'Anyone who divorces his wife must give her a certificate of divorce.'

<sup>32</sup> But I tell you that anyone who divorces his wife, except for sexual immorality, makes her the victim of adultery, and anyone who marries a divorced woman commits adultery.

#### **Matthew 19:3-9 (NIV 2011)**

<sup>3</sup> Some Pharisees came to him to test him. They asked, "Is it lawful for a man to divorce his wife for any and every reason?" <sup>4</sup> "Haven't you read," he replied, "that at the beginning the Creator 'made them male and female, <sup>5</sup> and said, 'For this reason a man will leave his father and mother and be united to his wife, and the two will become one flesh'? <sup>6</sup> So they are no longer two, but one flesh. Therefore what God has joined together, let no one separate."

<sup>7</sup> "Why then," they asked, "did Moses command that a man give his wife a certificate of divorce and send her away?" <sup>8</sup> Jesus replied, "Moses permitted you to divorce your wives because your hearts were hard. But it was not this way from the beginning. <sup>9</sup> I tell you that anyone who divorces his wife, except for sexual immorality, and marries another woman commits adultery."

#### **Mark 10:2-12 (NIV 2011)**

<sup>2</sup> Some Pharisees came and tested him by asking, "Is it lawful for a man to divorce his wife?" <sup>3</sup> "What did Moses command you?" he replied. <sup>4</sup> They said, "Moses permitted a man to write a certificate of divorce and send her away."

<sup>5</sup> "It was because your hearts were hard that Moses wrote you this law," Jesus replied. <sup>6</sup> "But at the beginning of creation God 'made them male and female.' <sup>7</sup> 'For this reason a man will leave his father and mother and be united to his wife, <sup>8</sup> and the two will become one flesh.' So they are no longer two, but one flesh. <sup>9</sup> Therefore what God has joined together, let no one separate."

<sup>10</sup> When they were in the house again, the disciples asked Jesus about this. <sup>11</sup> He answered, "Anyone who divorces his wife and marries another woman commits adultery against her. <sup>12</sup> And if she divorces her husband and marries another man, she commits adultery."

#### **Luke 16:18 (NIV 2011)**

<sup>18</sup> "Anyone who divorces his wife and marries another woman commits adultery, and the man who marries a divorced woman commits adultery."

The exceptions in Matthew 5:32 and 19:9 are ‘except for a matter of sexual immorality’<sup>3</sup> and ‘except on [the basis of] sexual immorality’<sup>4</sup> respectively. In themselves, these exceptions seem clearly to:

- a) be exceptions, and not anything else. This is despite the preposition in Matthew 5:32, *parektos* (‘except for’), having been at times read in other ways. In fact, as is now widely recognised, it will not bear any other meaning.<sup>5</sup>
- b) be very likely to refer to sexual immorality in general, including adultery (as opposed to pre-marital sexual unfaithfulness specifically, or unlawful-relation-marriage). This is particularly because of the combination of:
  - i) the use of the general term *porneia* (‘sexual immorality’)<sup>6</sup>, and
  - ii) the historical reality that, in Jewish Palestine, adultery increasingly resulted in divorce rather than the death penalty.<sup>7</sup>

With that in place, it seems Matthew presents a repudiation of divorce with the allowance of exceptions in the case of sexual unfaithfulness (*porneia*).

Some see remarriage as ruled out here, with divorce being only acceptable if no re-marriage occurs. But this seems to miss the point firstly of the exception, and secondly of what divorce (consistently in Jesus’ words *apoluo*, ‘sending away’) meant in cultural context. The point of the exception that is missed is this: the effect of the exception clause in Matt. 19:9 is that Jesus is speaking in this verse of a scenario where a person<sup>8</sup> divorces for a non-*porneia* reason and remarries – in *that* situation it calls remarriage ‘adultery’. But by invoking the exception, it

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<sup>3</sup> *parektos logou porneias*

<sup>4</sup> *mē epi porneia*

<sup>5</sup> ‘Because the philological evidence is unequivocal, other interpretations have largely disappeared, such as the “inclusive” interpretation (“whoever dismisses his wife commits adultery even in the case of unchastity”) and the “preterite” interpretation (“whoever dismisses his wife—ignoring for a moment the case of previous unchastity—commits adultery”). Jacques Dupont correctly observes that the true difficulty lies not in explaining the biblical text but in the fact that so many good authors did not understand it.’ (Ulrich Luz, *Matthew 1–7: a commentary on Matthew 1–7*. (H. Koester, Ed.) (Rev. ed.)) Minneapolis, MN: Fortress Press, 2007; p. 253)

<sup>6</sup> The word *porneia* refers to illicit sexual activity, which in the New Testament means any sexual activity outside of marriage

<sup>7</sup> F. Hauck notes that during the Roman period (in which Jesus lived) the prescribed death penalty for adultery ‘drops away’ (*Theological Dictionary of the New Testament, Volume 4, L-N*. Gerhard Kittel, ed. Grand Rapids: Eerdmans, 1967. Page 732). The Jewish Talmud indicates that the Sanhedrin had to relocate about 40 years before the destruction of the Temple (i.e. 30AD), and was not able to try capital cases, which would include adultery cases (bSanh. 41a). This, as well as any influence from more lax Greco-Roman practises of divorce, would mean that around the time of Jesus divorce would be more a common result of adultery than the death penalty. Further, R.H. Stein suggests that, even in earlier times, ‘whereas in theory adulterers were to be put to death...in practice other penalties were frequently imposed’, citing as evidence from the Old Testament Proverbs 6:33–35; Hosea 2:3, 10, and Ezekiel 16:37–39, 23:29. (“Divorce.” In J. B. Green & S. McKnight (Eds.), *Dictionary of Jesus and the Gospels*. Downers Grove, IL: InterVarsity Press, 1992, p. 195).

<sup>8</sup> One person who both divorces and remarries seems clearly to be in view (hence the use of the singular pronoun phrase ‘whoever’ [*hos an*]), rather than two separate scenarios where one person divorces and another person remarries.

implies there is a non-adulterous possibility for divorce and remarriage. Some commentators understand the exception to apply to divorce only and not to remarriage.<sup>9</sup> But this would render the exception meaningless because adultery can't happen unless a new sexual union is formed, i.e. remarriage in this context. Someone who divorces their spouse doesn't, by divorcing them, commit adultery, no matter what the reason for divorce. An exception clause is not needed to say that. The very point of the exception clause is to show there is a non-adulterous divorce and remarriage possibility.

The first half of 5:32 is very similar, and although remarriage is not specifically mentioned, it seems to be implied.<sup>10</sup> Again here the scenario in view, in light of the exception 'except for *porneia*', is someone divorcing for non-*porneia* reasons, and Jesus saying this results in adultery.<sup>11</sup> An extra difficulty appears, though, in the next clause where Jesus says 'whoever marries a divorced woman commits adultery'. This seems to be universal, meaning any divorced woman who remarries would become an adulteress. This clause must, however, be read in the light of the exception clause that precedes it; the purpose of this exception clause is to introduce the possibility of remarriage. The question then becomes whether it is right to understand this exception as being implied in the last clause as well. This last clause then becomes, in effect, 'whoever marries a divorced woman [who shouldn't be divorced] commits adultery'. This fits with the challenge he is making to the frivolous use of Deuteronomy 24 in the wider context (note 19:3, 7, and the use of *apostasion* here in 5:31<sup>12</sup>), but it must be admitted that it is still a difficult text. However, other readings are no less fraught with problems! And this reading seems to most fairly take account of the details of the text and context.

In any case, it does seem the very presence of the exception clauses in Matthew implies that there are at least *some* cases where divorce can lead to remarriage, even if the *specifics* of those cases are harder to nail down.<sup>13</sup>

The next question that needs answering is how we read Luke and Mark in relation to Matthew and his exceptions. Given that Matthew presents us with exceptions that were genuinely given by Jesus, it is not good enough to simply relegate Matthew 'under' Luke and Mark. This is often done by saying that Luke and Mark take priority, and therefore a different way must be found to

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<sup>9</sup> So that a person who has adultery committed against them is allowed to divorce but must not remarry.

<sup>10</sup> This is reinforced by the fact that a 'certificate of divorce' is in view (*apostasion*; 5:31), the purpose of which was, in large part, legitimating remarriage. This very likely reflects Deuteronomy 24:1-4 (the Greek translation of which also speaks of an *apostasion*), where again remarriage is in view.

<sup>11</sup> The verse literally says that the one divorcing his wife 'makes her to be adulterated' (*poiei autēn moicheuthēnai*). The 2011 edition of the NIV translates this 'makes her the victim of adultery', however, given the passive of this verb is often used of a woman committing adultery, it is more likely to mean 'makes her commit adultery' (see John 8:4 for the same verb used in this way; BDAG *moicheuō* b.β).

<sup>12</sup> See footnote 10 above.

<sup>13</sup> Most clearly in the examples in Matthew 5 and 19, a case where a man divorces his wife on account of sexual immorality she committed, and then he marries another previously unmarried woman. At the very least in this case remarriage is permitted from these texts, but perhaps there are other cases covered here too. Paul sees other situations for remarriage after divorce, as considered later.

read Matthew's text.<sup>14</sup> The Matthew passages add something distinctive that needs to be included in any attempt to understand the overall teaching of Jesus on divorce and remarriage. It is notable that both Luke and Mark, like Matthew, have controversy-teaching contexts. It may not be that they give Jesus' fully orbited teaching on divorce and remarriage, though it is notable that the scenario they both end up putting forward is someone who divorces and remarries and thereby commits adultery – which does seem a fairly blanket understanding. Still, on balance, it does seem right to qualify this with Matthew, for at least three reasons.

Firstly, in order to take the Matthean language noted above seriously. Secondly, because Jesus' statement 'what God has joined together, let not man separate' (Matt 19:6/Mk 10:9) is a command, but not necessarily a statement of absolute reality. In other words, it doesn't in itself necessarily mean marriage is indissoluble, but rather that it is not *supposed* to be dissolved and such dissolution is always sinful and tragic as contrary to God's good and universal purpose for marriage.<sup>15</sup> And thirdly, subsuming Matthew into Luke and Mark is not better reading than letting Matthew supplement Mark and Luke.

In summary, Jesus' teaching on divorce as understood from Matthew, Mark and Luke together shows that divorce is always a tragic occurrence and contrary to God's good purpose, that remarriage after divorce often results in an adulterous relationship, and yet that there are some cases when remarriage is permissible and non-adulterous.

### **Paul in 1 Corinthians 7**

In 1 Corinthians 7 Paul deals with issues concerning marriage, including divorce. The key section for our purposes is found in verses 10-16.

#### **1 Corinthians 7:10-16 (NIV 2011)**

<sup>10</sup>To the married I give this command (not I, but the Lord): A wife must not separate from her husband. <sup>11</sup>But if she does, she must remain unmarried or else be reconciled to her husband. And a husband must not divorce his wife.

<sup>12</sup>To the rest I say this (I, not the Lord): If any brother has a wife who is not a believer and she is willing to live with him, he must not divorce her. <sup>13</sup>And if a woman has a husband who is not a believer and he is willing to live with her, she must not divorce him. <sup>14</sup>For the unbelieving husband has been sanctified through his wife, and the unbelieving wife has been sanctified through her believing husband. Otherwise your children would be unclean, but as it is, they are holy.

<sup>15</sup>But if the unbeliever leaves, let it be so. The brother or the sister is not bound in such circumstances; God has called us to live in peace. <sup>16</sup>How do you know, wife, whether you will save your husband? Or, how do you know, husband, whether you will save your wife?

<sup>14</sup> Presumably this desire to explain away the exceptions is part of the reason for the over-pressed readings of *parektos* and *porneia* noted above.

<sup>15</sup> See David Instone-Brewer, *Divorce and Remarriage in the Bible: The Social and Literary Context*. (Grand Rapids/Cambridge: Eerdmans, 2002), p. 141 for a similar argument emphasising the difference between a command and an impossibility. In this way this command about divorce is like other commands of Jesus, which *should* be kept, but *are* indeed broken at times.

It is sometimes said that these verses do not permit remarriage either. This is understandable in one way, as in verses 10-11 Paul gives instructions that a woman is not to separate, but if she does she is to remain unmarried, and a husband is not to separate from his wife. In this Paul is consciously echoing the teaching of Jesus, hence him saying in verse 10 'not I, but the Lord'.<sup>16</sup>

However, he makes at least one clear exception in verse 15. In verses 10-11 he seems to be speaking predominantly of Christians married to other Christians, and in verse 12 moves to the specific situation of Christians married to someone 'who is not a believer'. If the non-believer is willing to live with the Christian, the Christian is not to divorce them. However in verse 15 he comes to the situation where the non-believer leaves the Christian. In such a situation he says the Christian is 'not bound' (literally 'not enslaved').<sup>17</sup>

Some commentators maintain that this does not indicate a freedom to remarry, but simply a freedom to be single and to live in peace in a separated state. However, at least two strong points stand against this:

a) despite the claims of some, the word Paul uses for separation here, *chōrizō*, clearly signifies that he has divorce in mind, not simply separation. In fact, it is probably the most unambiguous word for divorce he could use. There are various words used for divorce in contracts and other literature of the time,<sup>18</sup> but this one had become 'a technical expression for divorce'.<sup>19</sup> Indeed, '[t]here is no distinction in the marriage papyri between divorce and separation, and in Graeco-Roman law, separation with intention to end the marriage *was* divorce.'<sup>20</sup>

b) further, in the cultural context, the fact Paul was clearly speaking of divorce means that freedom to remarry would have been definitely assumed by his Corinthian readers. Instone-Brewer sums up the key reasons why: 'Remarriage after divorce was a right enshrined in Graeco-Roman and Jewish law. The establishment of this right was the main purpose of the Graeco-Roman divorce certificate and the sole purpose of the Jewish divorce certificate.'<sup>21</sup> Further, '[t]he basic element of the Jewish divorce contract

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<sup>16</sup> In these verses, as well as verse 15, Paul predominantly uses the word *chōrizō* (translated 'to separate' in the NIV), which Jesus also uses of humans not 'separating' what God has joined together (Mark 10:9/Matthew 19:6).

<sup>17</sup> *ou dedoulōtai*

<sup>18</sup> See the extensive list in the appendix to the generally very helpful article by David Instone-Brewer: '1 Corinthians 7 in the Light of the Graeco-Roman Marriage and Divorce Papyri' *Tyndale Bulletin* 52.1 (2001) 101-117 (also highly useful is its companion article: David Instone-Brewer, '1 Corinthians 7 In The Light of the Jewish Greek and Aramaic Marriage and Divorce Papyri' *Tyndale Bulletin* 52.2 (2001) 225-243). It is notable that Paul's use of *chōrizō* as his main word for divorce is actually more unambiguous than Jesus' predominant use of *apoluō*.

<sup>19</sup> G.A. Deissmann, *Bible Studies* (2<sup>nd</sup> Ed.) (Edinburgh: T. & T. Clark, 1901); p. 247.

<sup>20</sup> David Instone-Brewer: '1 Corinthians 7 in the Light of the Graeco-Roman Marriage and Divorce Papyri'; p. 107.

<sup>21</sup> David Instone-Brewer: '1 Corinthians 7 In The Light of the Jewish Greek and Aramaic Marriage and Divorce Papyri'; p. 241.

was the phrase “you are free,” permitting the wife’s remarriage’.<sup>22</sup> It is therefore exceedingly unlikely that Paul’s readers would not have heard permission to remarry in his words that a Christian is ‘not bound’ if their non-believing spouse divorces them.<sup>23</sup>

So it seems clear there is here at least one more situation where the New Testament envisages the possibility of legitimate remarriage after divorce.

In all we have said so far about the New Testament’s picture something needs to be recognised, something seen clearly in the wider emphasis of each of the passages looked at: as we consider divorce and separation we are dealing with exceptions and ways of navigating brokenness and tragic realities. The entire grain of all the texts is clearly that divorce is always terrible, even if it sometimes happens, and is always tied up with sin, and should never be seen as a good outcome. It is a rupturing of the intention of marriage as given by its Creator. Light or easy approaches to divorce and remarriage - though they may be more convenient and more closely conform to our cultural milieu where no fault divorce is acceptable - are clearly ruled out by the main message of the New Testament on marriage and divorce. This does raise some serious questions about some practices in our church, including at times evangelical churches, where some have easily allowed the remarriage of those who are divorced as if this were an open door rather than an occasional emergency measure. Such practises are not consistent with the picture Jesus and his Apostle give us, let alone the wider biblical picture regarding marriage,<sup>24</sup> and we need to repent where we have become lax in this way.

As we conclude our look at key passages divorce and remarriage in the New Testament, we can come to a number of conclusions: marriage is lifelong and divorce is therefore always tragic and contrary to the Creator’s purpose; that remarriage after divorce is often adulterous; and yet at the same time that there are some situations where remarriage after divorce is permissible, even as the divorces which lead to these remarriages are still tragic and lamentable results of humanity’s sinful fallenness.

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<sup>22</sup> Craig S. Keener, ‘Adultery, Divorce’. In C. A. Evans & S. E. Porter (Eds.), *Dictionary of New Testament background: a compendium of contemporary biblical scholarship* (electronic ed.). Downers Grove, IL: InterVarsity Press, 2000; p. 6.

<sup>23</sup> Instone-Brewer reinforces the point: ‘When Paul says they are ‘no longer enslaved’, any first century reader would understand him to mean that they can remarry, because they would think of the words in both Jewish and non-Jewish divorce certificates: ‘You are free to marry’. If Paul had meant something else, he would have had to state this very clearly, in order to avoid being misunderstood by everyone who read his epistle.’ (‘1 Corinthians 7 In The Light of the Jewish Greek and Aramaic Marriage and Divorce Papyri’; p. 242.) He also gives some sensible suggestions as to why Paul used the language of slavery here, with the key reasons being both the context of Old Testament marriage laws (which at important points include references to the rights of slaves who become wives [see Exodus 21:10-11]), and the seriousness of the marriage bond in Christian eyes (ibid. p239-40, 241-42).

<sup>24</sup> Which, at its highest and most theologically important, sees marriage as an image of God’s relationship with his people (e.g. the book of Hosea), or even more fully in the New Testament, as an image and reflection of the relationship of Christ to the church (e.g. Ephesians 5:22-33) – even if it is a paler reflection of the original.

## DIVORCE AND REMARRIAGE IN ACANZP

Until 1970 remarriage after divorce was not permitted in the Anglican Church in this province. Here is a brief timeline of notable events regarding divorce and remarriage in ACANZP.<sup>25</sup>

1899 – the Bishops of the Province made a declaration that remarriage after divorce was not according to Church Law.<sup>26</sup>

1937 – the Bishop’s Declaration noted above was endorsed by General Synod, apparently for the first time.<sup>27</sup> This, though, was simply a further endorsement of the already-current understanding. At the same time Archbishop Averill called for (and General Synod endorsed this call) a commission to consider the question of remarriage and divorce, especially with reference to the exception in Matthew’s Gospel.<sup>28</sup>

1968 – ‘A Statute to enact a Canon to provide for the Marriage in certain Circumstances of Divorced Persons’ was introduced and taken to the second reading.<sup>29</sup>

1970 – after going around the various Diocese for comment and assent, the above bill was passed with the wording unchanged.<sup>30</sup> This made remarriage after divorce in the

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<sup>25</sup> Most of the information here comes from the Proceedings of the various General Synods referred to, which are available at: <http://kinderlibrary.recollect.co.nz/nodes/view/1> (accessed 29th September 2017). I note that the record provided in my article is not a full record, and other changes may well have been made. I have tried to pick out the key ones.

<sup>26</sup> ‘We, Bishops of the Church of the Province of New Zealand, commonly called the Church of England, being assembled in Conference, and having regard to recent legislation on divorce, and to the uncertainty which prevails in the minds of men touching the law of the Church in this Province as it concerns the re-marriage of divorced persons, do hereby declare :-

(1) That the Church of this Province received its Constitution on the 13th day of June, 1857.

(2) That the rule which prevailed at that time in the Church of England became the rule of the Province, and must continue to be so until such time as it shall be altered by **Act of the General Synod**.

We wish it to be known that the re-marriage of a divorced person, during the lifetime of the other party is therefore contrary to the law of the Church of this Province, and that no Bishop or Priest of the Church is at liberty to celebrate such a marriage.’

Cited by Archbishop Alfred Averill in his President’s Address to the 1937 General Synod (*Proceedings of the Twenty-Seventh General Synod, Held at Hamilton, April 7<sup>th</sup> to 16<sup>th</sup>, 1937*. Wellington: Coulls Somerville Wilkie Ltd., 1937; p. 29)

<sup>27</sup> *Proceedings of the Twenty-Seventh General Synod*, p. 57, see pp.29-30.

<sup>28</sup> ‘It would, I think, be of great value to the Church of this Province if such a Committee could be set up, with the same order of reference so that the General Synod might make some definite pronouncement upon the bearing, if any, of that exception upon the general rule of the Church. Such pronouncement would be an assurance to the Community that the attitude of the Church on the question of the re-marriage of divorced persons was not the outcome of cold and unsympathetic ecclesiasticism but the result of a careful and unbiassed study of the teaching of Jesus Christ, the Truth.’ (*Proceedings of the Twenty-Seventh General Synod*, p. 30.) This intention was endorsed by a motion of General Synod (p. 57). All of this came in light of an encyclical letter from Lambeth 1920 which affirmed as the Lord’s ‘principle and standard of marriage a lifelong and indissoluble union for better for worse, of one man with one woman, to the exclusion of all others or either side, and calls on all Christian people to maintain and bear witness to this standard’, yet also admitted ‘the right of a national or regional Church within our Communion to deal with cases which fall within the exception mentioned in the record of our Lord’s words in S. Matthew’s Gospel’ (cited in *Proceedings of the Twenty-Seventh General Synod*, p. 30.)

<sup>29</sup> *Proceedings of the Thirty-Eighth General Synod, Held at Wellington, April 29<sup>th</sup> to May 3<sup>rd</sup>, 1968*. Christchurch: Coulls Somerville Wilkie Ltd., 1968; pp. 103-4.

Anglican Church in NZ possible with Bishop's permission under certain circumstances. This Bill also put into effect a new Canon under Title G – the Marriage of Divorced Persons.<sup>31</sup>

1972 - the canons on Marriage were consolidated into a single canon called 'Of the Solemnization of Marriage'. This included a section on the nature of marriage, which importantly upheld the lifelong nature of it in its essence, instruction and rules on the solemnization of marriage, and the provision in certain circumstances for the remarriage of divorced persons (being the canon as enacted in 1970).<sup>32</sup>

1984 – Part IV of the aforementioned Canon, being the section on remarriage of divorced persons, was amended so that Bishops didn't have to give license for such marriages, but an incumbent could conduct such a marriage after 'full and adequate inquiry'.<sup>33</sup>

2000 – 'Of the Solemnization of Matrimony' was repealed and replaced with the Canon III 'Of Marriage' as it currently stands.<sup>34</sup> This included the removing of Part IV (the section on remarriage of divorced persons) and the effective replacement of it with a very simple statement (clause 2.9) which allows remarriage at a minister's discretion.<sup>35</sup>

It is worth noting that among the original reasons for revising the practice of the Anglican Church in NZ, faithfulness to Scripture was of utmost importance. Within this the Matthean exception (noted above) played a central role. This is important to note because it is often said that shifts in societal views were what motivated these changes.<sup>36</sup> While this no doubt has an element of truth, it is a strong oversimplification.

As noted earlier, in both the Lambeth statement of 1920, and in the related statements of the Archbishop in 1937 with their correlating motions, the issue of the exception in Matthew's

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<sup>30</sup> The title, however, was changed from 'A Statute to Enact a Canon...' (1968) to 'A Bill to Enact a Canon...' (1970). For a summary of the responses of the various Diocese to the statute as it was considered in their Synods, see the report included in the 1970 Proceedings (*Proceedings of the Thirty-Ninth General Synod, Held at Christchurch, April 20<sup>th</sup> to 24<sup>th</sup>, 1970*. Christchurch: Simpson and Williams Ltd., 1970; pp. 156-8.)

<sup>31</sup> *Proceedings of the Thirty-Ninth General Synod*, pp. 101-2.

<sup>32</sup> *Proceedings of the Fortieth General Synod, Held at Napier, 24<sup>th</sup> to 28<sup>th</sup> April, 1972*. Christchurch: Simpson and Williams Ltd., 1972 ; pp. 139-45. Some further context to this statute can be seen in the report of the commission which prepared it, pp. 203-4.

<sup>33</sup> *Proceedings of the Forty-Sixth General Synod, Held at Christchurch, 6<sup>th</sup> to 11<sup>th</sup> May, 1984*; p. 80.

<sup>34</sup> *Proceedings of the Fifty-Fourth General Synod / Hinota Whanui, Auckland 7-12 May 2000*; pp. S.3-6

<sup>35</sup> 'The marriage service of a person who has been divorced may be conducted by a minister even though the other party to the prior marriage is still living.'

<sup>36</sup> For instance, in the brief history given at the ACANZP website, it says: "Changing social attitudes are reflected in the decision by the church in 1970 to permit the re-marriage of divorced persons in church." (<http://www.anglican.org.nz/About/History> [accessed 29th September 2017]) Similarly at *Te Ara*, a New Zealand Government encyclopaedia website, this can be found: 'Along with Catholics, Anglicans upheld the sanctity of marriage and vigorously opposed divorce. The realities of life in their communities and the liberalisation of divorce led Anglicans to change their position.' (<http://www.teara.govt.nz/en/anglican-church/page-4> [accessed 29th September 2017])

Gospel was foremost.<sup>37</sup> And at the point of decision in 1968 and 1970, Archbishop Norman Lesser's presidential addresses express a concern for both theological and practical/pastoral concerns.

At one point in his 1968 address he says regarding the statute which was before General Synod: 'The people whom we have in mind are mostly those who do really desire to strive to avoid what jettisoned their first marriage, and positively to contribute to their union with a new partner, all that is of worth within them.' At the same time he continues shortly after that '[i]t is not a lack of compassion but a different view of the nature of things as God has created them - of what a marriage is, which is the heart of a contrary opinion.'<sup>38</sup> And then in his 1970 address, after the Bill had been around the various Diocese, he holds the two points together it would seem, saying that there will be support from those 'regarding the Bill as being consistent with the needs of our day, and yet not disregarding the essentials of our Lord's teaching'.<sup>39</sup> It is hard from this to know what the Archbishop's own understanding was, but clearly there was much more at stake than simply societal change. No doubt such change was at least part of the catalyst for reconsiderations, but it does seem that: a) significant time and care was indeed taken with considering this change, and b) that faithfulness to Scripture remained a key factor in the decision for change.

However, it does seem that, while the initial move to change was consistent with Scripture and on the whole seems to have been done in such a way as to take significant care over such a significant change, later changes have been less responsible. This is particularly clear in the move in 2000 to compress the entirety of Part IV of the Canon into a single, fairly toothless clause. While this is not out of keeping with the Scriptural picture (in that it could still be expected that Priests and Bishops would exercise rigorous caution in the remarriage of divorcees, even while allowing it in certain cases), and while this (like the previous Canon) provided an appropriate pastoral flexibility for those whose avowed duty and commitment is to teach and act in line with Scripture, the 2000 Canon does seem to significantly underplay the significance of the tragedy of divorce, and the seriousness of the question of whether remarriage is permissible in a particular instance. This is particularly the case when you consider the weightiness of the section of the Canon which it in effect replaced. It is important to note that this is not a case of church law blessing sin *per se*, but it is a case of church law not reflecting the gravity of the issue, and it seems wise to revisit it.<sup>40</sup>

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<sup>37</sup> See quotations at footnote 28 above.

<sup>38</sup> *Proceedings of the Thirty-Eighth General Synod*, p. 22.

<sup>39</sup> *Proceedings of the Thirty-Ninth General Synod*, p. 21.

<sup>40</sup> Such a place for revisiting may come about sooner rather than later, as Bosco Peters thinks that it has been realised that the process for changing the church's practise on remarriage of divorced people was not gone through properly in 1970 – as there should have been a change of formulary with a full two round process for something that is in effect a change of doctrine (e.g. <http://liturgy.co.nz/divorce-remarriage-blessing-same-sex-couples> [accessed 29th September 2017]). Questions can be raised here as to whether this was in fact a change of church doctrine as such, and therefore whether such a process was needed - an argument could be made that marriage is still a 'lifelong covenant between a man and a woman' as stated in the formularies (e.g.

## PARALLELS

To draw all of this together, and in the light of it to address the questions raised about parallels to same-sex marriage and same-sex blessings (SSM to sum up both from here on), here are five points on the degree to which the two issues are parallel:

**1) *The biblical evidence is genuinely more oblique regarding divorce and remarriage than it is regarding SSM.***

Although a number of interpreters make a case that the biblical witness is vague on the matter of SSM, there are some evident realities from the biblical text:

- a) there is some very clear general teaching in one general direction, namely that sexual practise outside of marriage between a man and woman is consistently considered under the category of *porneia*, and considered illicit;<sup>41</sup>
- b) there are some explicit statements regarding homosexual practice that fit within this wider picture (e.g. 1 Corinthians 6, Romans 1);<sup>42</sup>
- c) there is the overarching, clear, and positive teaching in the direction of marriage being between one man and one woman for life, and of the value and usefulness of singleness for those not married. This teaching provides the essential background for a) and b) above;

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*A New Zealand Prayer Book*, p. 779), but that this covenant is in some extraordinary circumstances broken, meaning remarriage is permissible. Such an argument is not out of keeping with the picture we have seen from the New Testament, especially in the whole picture of Jesus' words on this issue in the Gospels, where marriage is considered in essence to be life-long ('what God has joined together') and yet occasional tragic exceptions are allowed for. Having said all of this, it may well turn out that Bosco Peters is right and revision is indeed necessary, which would provide an opportunity to improve the situation we now have to better reflect the weight of Scripture regarding divorce and remarriage.

<sup>41</sup> It must be remembered at this point that the Bible *narrates* all sorts of sexual practise, including by the positive characters in its story, but this is by no means the same as *endorsing* that practise, and indeed many of the narratives where such practise does occur go on to show what a mess it makes (e.g. the story of Abraham and his descendants in Genesis).

<sup>42</sup> William Loader and Luke Timothy Johnson, two leading New Testament scholars, provide strong endorsement for the fact that the New Testament teaches that homosexual activity is one of the sexual practises that is not appropriate for Christians. Loader is 'widely regarded as the foremost scholar on sexuality in ancient Judaism and Christianity' (Preston Sprinkle, 'Introduction', in *Two Views on Homosexuality, the Bible, and the Church*. Preston Sprinkle, ed. Grand Rapids: Zondervan, 2016, p. 13). He says that the biblical writers in addressing same sex relations make 'the message relatively clear' that they consider same-sex sexual relations to be wrong ('Homosexuality and the Bible', in *Two Views on Homosexuality, the Bible, and the Church*, p.42-43). Luke Timothy Johnson, addressing efforts to say Scripture does not speak against same-sex relationships, states: 'I have little patience with efforts to make Scripture say something other than what it says, through appeals to linguistic or cultural subtleties. The exegetical situation is straightforward: we know what the text says.' ('Homosexuality and the Church: Scripture and Experience', <https://www.commonwealmagazine.org/homosexuality-church-0> [accessed 29th September 2017]). This is particularly notable, as both Loader and Johnson themselves affirm same-sex sexual relationships despite their recognition that Scripture does not (Loader, 'Homosexuality and the Bible', p.46-48; Johnson 'Homosexuality and the Church' *passim*).

d) there are no clear indications of positive teaching on homosexual practice, nor of exceptive teachings to the place of sexual practice being in traditional marriage.<sup>43</sup>

The weight of this last point becomes more evident in the process of wrestling with the issue of divorce and remarriage. It has real significance, because there is exceptive teaching on divorce and remarriage in the New Testament, and therefore there are passages that, at face value, point in slightly different directions.<sup>44</sup> And while the principle of lifelong marriage is clear, the reality of legitimate exception is present among the few verses that talk about this issue in the New Testament.<sup>45</sup> In summary, the Bible points in one clear direction regarding SSM and homosexual sexual activity, but for divorce it is genuinely more complex.

**2) In order for the parallel to work, SSM would have to be presented as a concession to sin and brokenness.**

There really is a sense here where any allowance of divorce (and therefore remarriage) is a concession to evil and sin, and a turn away from the Creator's ideal. It is not at all the case that we can be happy about the occurrence of divorce and remarriage, but rather that we allow it at times, following the lead of Jesus and Paul, always with lament of the brokenness involved. For a simple parallel to be drawn between the two issues, proponents of SSM would need to present their case in a similar way. They would have to say something like: 'evil and sin and brokenness are in the world, and because of this some people are attracted to others of the same sex, so in this sinfulness we will make some exceptions to the good rule of opposite sex marriage, even as we lament same sex activity and recognize it as an distortion of God's created design and intent for human sexuality'.<sup>46</sup> This is not the way SSM is presented by those in favour of changing church practice, and that considerably weakens the parallel.

**3) There is, however, a genuine parallel that should happen and is happening.**

It is often said that we have revised our understanding of divorce so we are also able to revise our understanding of SSM. It is in part true that we have revised our understanding of divorce and remarriage. It does seem that the large majority of at least the Western church has been negative towards remarriage after divorce (or even in many cases divorce proper, as opposed to

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<sup>43</sup> Efforts to find endorsements of same-sex sexual relationships have to resort to considerable speculation. A good example is Jeffrey John's presentation of the possibility, advanced by some scholars, of a sexual relationship between the centurion who approached Jesus and his slave (*Permanent, Faithful, Stable: Christian Same Sex Marriage*. London: Dartmon, Longman and Todd, 2012, p. 14-15. See Matthew 8:5-13; Luke 7:1-10). Apart from the fact that Jesus healing someone in such a relationship would not constitute endorsement of the relationship any more than his healing of anyone constitutes endorsement of any of their sinful behaviours, Loader rightly dismisses this speculation as having little to no textual support (*The New Testament on Sexuality*. Cambridge: Eerdmans, 2012, pp. 336-7; 'Homosexuality and the Bible', p.33).

<sup>44</sup> Specifically, Matthew and 1 Corinthians say things that Mark and Luke do not say when it comes to the possibility of remarriage - although it is important to remember that the main thrust of all of these passages is the same: that marriage is to be lifelong and sacred, and that any departure from that is tragic.

<sup>45</sup> This is without even taking account of the fact that Jesus says this is all tied up with an allowance made for 'hardness of heart' (Matthew 19:8; Mark 10:5).

<sup>46</sup> It is notable that, even if this path were to be taken, it would still leave the key difference that we would not be following the lead of Jesus and Paul in making such a concession.

separation). There have been many exceptions, but this majority has still been the case.<sup>47</sup> In ACANZP we have made a change, but it is overall a change that reflects more accurately the position of Scripture. Although it is often presented in an over-simplified way, it is very likely that this change was partly the result of the pressure of changing societal attitudes, which caused the church to re-look at its views in the light of Scripture.

A similar chastening regarding SSM has also been necessary, and has indeed been happening, under pressure from a changing society. This chastening regarding SSM is resulting in some of the prejudices and holier-than-thou attitudes, which at times have regarded same-sex sexual sin as being in a special category, being dashed by a better reading of the gospel, of ourselves, and of other people. With divorce and remarriage, the right re-reading of Scripture is not to have us become endorsers of no-fault divorce, but rather to recognize the possibility of remarriage in a few situations. In a parallel way, with SSM the right move is not to throw out male-female union as the place for sex, but to revisit the place of singleness and our prejudices about a minority sin-struggle, recognising that it is part of the same problem as the sin-struggles that the majority have.

#### **4) *The Canons are, on the whole, not the problem.***

The key question for the legal side of ACANZP – namely whether, by blessing remarriages, we already bless sexual immorality in the form of adultery, and therefore should stop making a big deal about SSM – is a fair one. The answer appears to be that on the ground many of us may do this, but we shouldn't be doing it. At this point, our canon laws are not the basic problem. As we have seen, there seems clearly to be at least the possibility of remarriage in some situations if we let each part of the New Testament which addresses this issue speak on its own terms. Divorce is always a sad reality to have to countenance, and this does tinge any remarriage, but the possibility for remarriage is permitted by Scripture in some cases. To the extent that our canons allow that possibility, yet leave us to give weight to its grievous nature, they reflect the balance of Scripture well. As it stands, our canons do indeed do this, although this was perhaps done in a more fitting way when the allowance of remarriage was initially introduced, and more recent changes less aptly reflect the seriousness of divorce. Still, the real problem is that we are often lax and not serious enough in our application of the pastoral freedoms and responsibilities we have been entrusted with in this area.

The unfortunate truth, though, is that our laxity and lack of seriousness is not just in the area of divorce and remarriage, but regarding sexual morality in general. Our canons and formularies still reflect the scriptural expectation and God-given good of sex within marriage. But we often fail to live up to this expectation and to sufficiently encourage this good. The great problem, then, regarding some of the suggestions that have been put forward in *A Way Forward* and subsequent reports is that they seek to change the canons and practices of our church in such a way as they would no longer exclusively reflect that expectation and good. This would also be

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<sup>47</sup> A number of important Reformers saw it differently notably (see for example John Calvin's commentary on Matthew 5:32-33 and Matthew 19:3-9 for very clear statements on this). These Reformers' understanding came at the same time as they rethought clergy celibacy – could it be possible that a movement away from the inherent impurity or debased nature of sex was part of this entire rethink?

the case if our canons and formularies blessed divorce itself, or explicitly encouraged no fault divorce and remarriage. Even so, as we have noted, a revisit of the way our canons enshrine a scripturally-legitimate flexibility regarding divorce and remarriage would be timely and useful.

### **5) A rebuke that is valid.**

Our problem, in large part, which has allowed this to be an issue where we evangelicals feel the pinch of the accusation of hypocrisy, is how lax and worldly we have become about divorce and remarriage, often in order to avoid the cultural awkwardness, pastoral pain, or careful, prayerful thought required to maintain a scriptural line on it. John Stott's pastoral suggestion of a strong commitment to speaking of marriage and reconciliation before any discussion of divorce is countenanced presents a much better way forward.<sup>48</sup>

## **CONCLUSION**

Some claim that we have double standards because we live happily with different sexual integrities around divorce. At this stage it would seem that we can repudiate this claim. This repudiation is possible because we can only be happy with an integrity that is consistent with the scriptural picture which allows for remarriage in a few circumstances, and with canons and formularies that leave us some pastoral room to work out the details.<sup>49</sup> But we must also heed the rebuke that is here for us from Scripture, repent of our laxity in this area, give thanks for Jesus' wonderful forgiveness for us and all who turn to him in repentance, and move our practice closer to the Scriptural expectation in the area of divorce and remarriage.

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<sup>48</sup> "So, speaking personally as a Christian pastor, whenever somebody asks to speak with me about divorce, I have now for some years steadfastly refused to do so. I have made the rule never to speak with anybody about divorce, until I have first spoken with him (or her) about two other subjects, namely marriage and reconciliation. Sometimes a discussion on these topics makes a discussion of the other unnecessary. At the very least, it is only when a person has understood and accepted God's view of marriage and God's call to reconciliation that a possible context has been created within which one may regretfully go on to talk about divorce. This principle of pastoral priorities is, I believe, consistent with the teaching of Jesus." (Stott, J. R. W. *The Message of the Sermon on the Mount (Matthew 5-7): Christian Counter-Culture*. Leicestershire; Downers Grove: Inter-Varsity Press, 1985; pp. 98-99)

<sup>49</sup> Though as noted I think that in their current form they have probably moved too far in that direction to be ideal, and I would support any move to re-look at them.