

Brief on Divorce and Remarriage¹

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Table of Contents

<i>The allowable opinions for and against</i>	2
<i>Common sense defends the opinion for</i>	3
<i>Laws regulating divorce and remarriage are disciplinary laws and thus can be changed</i>	3
<i>Bishops who allowed divorce and remarriage</i>	4
In the days of the apostate Origen	4
St. Hilary, Bishop of Poitiers	4
The apostate Bishop Basil of Cesarea	4
St. Ambrose, Bishop of Milan	4
The heretic Epiphanes, Bishop of Salamis	5
The heretic Chromatius, Bishop of Aquileia	5
St. Asterius, Bishop of Amasea	6
The heretic John Chrysostom, Bishop of Constantinople	6
St. Patrick, Bishop of Ireland	6
St. Augustine, Bishop of Hippo	7
<i>Popes who allowed divorce and remarriage</i>	8
Pope Innocent I	8
Pope Gregory II.....	8
Pope St. Zacharias	8
<i>Councils that allowed divorce and remarriage</i>	9
Council of Arles, 314.....	9
Council of Vannes, 465	10
Council of Agde, 506.....	10
Council of Verberie, 752	10
Council of Compiègne, 756.....	10
<i>Annulment is divorce by another name</i>	11
<i>Those who acknowledge the need of an infallible papal decree</i>	13

¹ RJMI's Briefs are Long Commentaries contained in the end of *The Catholic Bible*, revised by RJMI.

The allowable opinions for and against

Among those who hold the dogma that divorce and remarriage while both spouses are still alive is not intrinsically evil, as God allowed this during the Old Covenant era, and thus hold the dogma that laws regulating divorce and remarriage are disciplinary law, some believe Jesus allowed divorce and remarriage for fornication and similar sins while greatly limiting the reasons for it (which is the opinion I hold) while others believe that Jesus did not allow for any exceptions and thus under no circumstances can the faithful who are married divorce and remarry while both spouses are alive.:

A Dictionary of Christian Antiquities, by Smith and Cheetham, 1880: “The general conclusion that we arrive at from a review of the documents and authorities of the early church is that while the remarriage of the guilty party was sternly and uncompromisingly condemned, there was no consensus on the question of the lawfulness or unlawfulness of the remarriage of the innocent party.”²

The opinion that allows divorce and remarriage is based upon Matthew 19:9 and Matthew 5:32:

“And I say to you, that whosoever shall put away his wife, except it be for fornication, and shall marry another, committeth adultery: and he that shall marry her that is put away, committeth adultery.” (Mt. 19:9)

“But I say to you, that whosoever shall put away his wife, excepting for the cause of fornication, maketh her to commit adultery: and he that shall marry her that is put away, committeth adultery.” (Mt. 5:32)

The opinion that does not allow divorce and remarriage is based upon Lk. 16:18:

“Every one that putteth away his wife, and marrieth another, committeth adultery: and he that marrieth her that is put away from her husband, committeth adultery.” (Lk. 16:18)

Those who hold the later opinion have to ignore or misinterpret Matthew 19:9 and Matthew 5:32 which, in my opinion, clearly say that a husband can put away his wife and marry another in the case of fornication. And fornication implies other sins of the same grave nature, just as the sixth command that forbids adultery does not only apply to adultery but all kinds of sexual sins, such as homosexuality. Now, according to this opinion, Lk. 16:18 is easily interpreted to mean that while a wife is still a wife, the husband cannot put her away and marry another. However, if his wife is no longer his wife due to divorce because of fornication, then he can put away the woman who is no longer his wife and marry another. The same applies to the following quotes from St. Paul

“But to them that are married, not I but the Lord commandeth, that the wife depart not from her husband [as long as he remains her husband]. And if she depart, that she remain unmarried, or be reconciled to her husband [and thus he is still her husband]. And let not the husband put away his wife [as long as she is his wife].” (1 Cor. 7:10-11)

“Know you not, brethren, (for I speak to them that know the law,) that the law hath dominion over a man, as long as it liveth? For the woman that hath an husband, whilst her husband liveth is bound to the law. But if her husband be dead, she is loosed from the law of her husband. Therefore, whilst her husband liveth [who is still her husband], she shall be called an adulteress, if she be with another man: but if her husband be dead, she is delivered from the law of her husband; so that she is not an adulteress, if she be with another man.” (Rom. 7:1-3)

² v. 2. Marriage: Remarriage after divorce.

Hence these verses apply to baptized husbands and wives, not to baptized ex-husbands and ex-wives who got validly divorced and thus are no longer husbands and wives. These verses do not deal with the reasons that allow baptized spouses to divorce and remarry. However, Mt. 5:32 and Mt. 19: 9 do mention a reason that allows for divorce and remarriage—fornication.

Common sense defends the opinion for

I do not believe it is God's will that a wife whose husband greatly endangers the spiritual or physical welfare of his family must remain married to him unless he amends his ways. At first he should be separated from his family, if possible, with the hope that he repents. If he proves to be obstinate, then the wife must not only separate from him but she can also divorce him and remarry. The same applies to a husband whose wife greatly endangers the spiritual or physical welfare of her family.

Take the example of a 20-year-old wife whose husband looks at pornography and shows it to his children or worse sexually abuses or attempts to sexually abuse his children. At first, the wife and children must separate from him.³ And if he does not repent, she can divorce him and remarry. Surely, God would not want this young woman and her children to live the rest of their lives without a good husband and father to take care of them. The same applies to a drunkard husband who unjustly beats his wife and children. And the same applies to a husband whose wife greatly endangers the spiritual or physical welfare of her family.

But it is the Catholic Church who must judge and determine the just causes for divorce and remarriage in general and in specific cases, as spouses can lie, exaggerate, or seek divorce and remarriage for less serious or frivolous reasons.

Laws regulating divorce and remarriage are disciplinary laws and thus can be changed

Because laws regulating divorce and remarriage are disciplinary laws, they can be abolished, modified, or dispensed or exempted from. Hence even if Jesus did ban divorce and remarriage with no exceptions, a pope can change that law because it is a disciplinary law. The argument that disciplinary laws made directly by God can never be changed does not hold because God directly made disciplinary laws during the Old Testament era that were changed. For example, God directly gave the disciplinary law of circumcision to Abraham:

“Again God said to Abraham: And thou therefore shalt keep my covenant and thy seed after thee in their generations. This is my covenant which you shall observe, between me and you, and thy seed after thee. All the male kind of you shall be circumcised. And you shall circumcise the flesh of your foreskin that it may be for a sign of the covenant between me and you.” (Gen. 17:9-11)

Yet this law was abolished and not by Jesus and thus not directly by God but indirectly by God through the first pope. St. Peter, at the Council of Jerusalem in AD 50. Hence when Jesus said, “What therefore God hath joined together, let no man put asunder.” (Mk. 10:9), he meant that only God can directly put it asunder or indirectly through his representative on earth, which during the New Covenant era is the pope. Hence the pope, speaking for God, can put asunder disciplinary laws that were directly made by God.

Hence if Jesus did not allow exceptions for divorce and remarriage, a pope, and only a pope, can change the law. Yet if Jesus allows exceptions for divorce and remarriage, such as for fornication and similar sins, then a bishop can allow it without the need of the approval of a pope. Indeed, for at least the first 1000 years of Church, some bishops have allowed divorce and

³ If it were a Catholic State, the just penalty for sexual abuse of children is the death penalty.

remarriage and thus imposed it upon their flocks. And, to my knowledge, no pope ever condemned them for it. And popes themselves have explicitly allowed it. Take the following examples.

Bishops who allowed divorce and remarriage

In the days of the apostate Origen

In the days of Origen, some Catholic bishops, Catholic commentaries, and local Catholic councils allowed it:

The apostate Cornelius a Lapide, Commentary on Mt. 19:9: “Origen, in this passage (*Tract. 7*), animadverts severely upon certain bishops of his time, for conceding with Tertullian (*lib. 4, cont. Marc.*) and Ambrosiaster (*in Cor. vii.*), second nuptials to wives on account of the adultery of their husbands, saying that it is lawful for the innocent spouse to put away an adulterous partner, and to marry another. The same license is given by the Council of Illiberis [Elvira]. (31 *quæst. 1 cap. Si qua mulier.*) Also *in Concil. Aurelian [Arles] 1, cap. 10.*”

St. Hilary, Bishop of Poitiers

St. Hilary of Poitiers, Commentary of Matthew 5:32: “For while the law had granted the liberty of effecting divorce on the authority of a libellus, now the evangelical faith has not only enjoined on the husband the desire for concord, but has judged him guilty of compelling his wife to adultery if she is married again to another man because of the necessity of his departure; it prescribes no other ground for desisting from wedded life than the defilement of a husband by the society of a polluted wife.”⁴

The apostate Bishop Basil of Cesarea

Apostate Basil of Caesarea, *Letter 188*, 4th century: “Canon 9. The sentence of the Lord that it is unlawful to withdraw from wedlock, save on account of fornication, applies, according to the argument, to men and women alike... But the man who has been abandoned is pardonable, and the woman who lives with such a man is not condemned. But if the man who has deserted his wife goes to another, he is himself an adulterer because he makes her commit adultery; and the woman who lives with him is an adulteress, because she has caused another woman's husband to come over to her.”

St. Ambrose, Bishop of Milan

The Ambrosiaster, which is said to be the work of St. Ambrose, allows divorce and remarriage for fornication but, oddly, only for the offended husband but not for the offended wife:

Ambrosiaster, 4th century, on 1 Cor. 7:11: “ ‘but if she does, let her remain single or else be reconciled to her husband—and that the husband should not divorce his wife.’ The apostle’s advice is as follows: If a woman has left her husband because

⁴ iv, 22.

of his bad behavior, she should remain unmarried or be reconciled to him. If she cannot control herself, because she is unwilling to struggle against the flesh, then let her be reconciled to her husband. A woman may not marry if she has left her husband because of his fornication or apostasy, or because, impelled by lust, he wishes to have sexual relations with her in an illicit way. This is so because the inferior party does not have the same rights under the law as the stronger one has. But if the husband turns away from the faith or desires to have perverted sexual relations, the wife may neither marry another nor return to him. The husband should not divorce his wife, though one should add the clause *except for fornication*. The reason why Paul does not add, as he does in the case of the woman, *But if she departs, he should remain as he is* is because a man is allowed to remarry if he has divorced a sinful wife. The husband is not restricted by the law as a woman is, for the head of the woman is her husband.”

A History of Matrimonial Institutions, by George Elliott Howard, Ph.D., 1904: “By some Fathers the right of remarriage is conceded to the man repudiating a guilty wife, while they deny it to the woman under like conditions. Others, actuated by a livelier sense of justice, like Epiphanius, concede it to both consorts alike.”⁵

Footnote 2: “Const, c. i. *ad leg. Tul.* (9. 9); Munchen, *l.c.* S. 58. It was not until the year 449 that the position of man and wife was put on the same footing in this respect.”

The heretic Epiphanes, Bishop of Salamis

Bishop Epiphanes was a non-notorious heretic most of the days he lived. Nevertheless, he, in my opinion, held the correct opinion that Jesus allows for divorce and remarriage for serious reasons:

Heretic Epiphanius, *Panarion*, c. 377: “But this can be tolerated in the laity as a concession to weakness—even remarriage after the first wife’s death by those who cannot stop with the first wife. And the husband of [only] one wife is more highly respected and honored by all members of the church. But if the man could not be content with the one wife who had died, or if there has been a divorce for some reason—fornication, adultery or something else—and the man marries a second wife or the woman a second husband, God’s word does not censure them or bar them from the Church and life, but tolerates them because of their weakness. The holy word and God’s holy Church show mercy to such a person, particularly if he is devout otherwise and lives by God’s law not by letting him have two wives at once while the one is still alive, but by letting him marry a second wife lawfully if the opportunity arises after being parted from the first.”⁶

The heretic Chromatius, Bishop of Aquileia

Heretic Chromatius, *Tract 10*, on Chapter 5 of St. Matthew: “He acts against the will of God who rashly presumes to separate by an illicit divorce a marriage united by God. Let them be aware, therefore, what a grave crime subject to damnation by God they commit who, for unbridled lust dismiss their wives (without cause of adultery) and seek to pass to another marriage. While it is unlawful to put away a chaste and pure wife, it is permitted to dismiss an adulteress because she has made herself unworthy of her husband's relationship by sinning against her own body and daring to violate the temple of God.”

⁵ v. 1, pt. 1, sec. 3, p. 25.

⁶ b. 2, sec. 59.

St. Asterius, Bishop of Amasea

St. Asterius, *Homily 5*, on Matthew 19:3: “You must hold this as entirely certain that nothing except death and adultery can dissolve marriage.”

The heretic John Chrysostom, Bishop of Constantinople

In the below quotes, Chrysostom teaches that adultery breaks the twain of spouses so that they are no longer one. He teaches that if the non-adulterous spouse remains with the adulterous spouse, he or she is joined to harlot and thus, by implication, not joined to a spouse. Hence the only conclusion is that adultery breaks the bond of marriage:

Heretic John Chrysostom, *Homilies on the Gospel of St. John*, Homily 63, c. 390: “4. ...‘If any man put away his wife, saving for the cause of fornication, he causeth her to commit adultery.’ (Matt. v. 32.) For if the coming together maketh one body, he who cometh together with a harlot must needs become one body with her. How then shall the modest woman, being a member of Christ, receive such an one, or how shall she join to herself the member of an harlot... ‘Shall I then make the members of Christ the members of an harlot?’ ... Sheep that are covered with the scab, and full of disease, may not herd with those that are in health; we must drive them from the fold until they get rid of the malady. We have been made members of Christ; let us not, I entreat, become members of an harlot.”

Heretic John Chrysostom, *Homilies on the Gospel of St. Matthew*, Homily 17, c. 390: “4. ‘Now it hath been said, Whosoever shall put away his wife, let him give her a writing of divorcement. But I say unto you, Whosoever shall put away his wife, saving for the cause of fornication, causeth her to commit adultery; and whosoever marieth her that is put away, committeth adultery.’ ...And not thus only, but in another way also he hath lightened the enactment: forasmuch as even for him he leaves one manner of dismissal, when He saith, ‘Except for the cause of fornication;’ since the matter had else come round again to the same issue. For if he had commanded to keep her in the house, though defiling herself with many, he would have made the matter end again in adultery.”

St. Patrick, Bishop of Ireland

Synod of St. Patrick, 5th century:

“Canon 26. Of a prostitute wife: Hearken unto the Lord when he saith: ‘He who is joined to a harlot is made one body.’ Also, ‘An adulteress shall be stoned’; that is, she shall die for this fault that she may cease to increase who does not cease to commit adultery. Further, if a woman has become corrupted, does she return to her former husband? Moreover, it is not permitted to a man to put away his wife, except because of fornication; and if he says it is for that reason; hence, if he marries another, as if after death of the former, [authorities] do not forbid it.”

“Canon 28. Of the first or the second vows: “First vows and first marriages are to be observed in the same way, that the first be not made void for the second, unless they have been stained with adultery.”

This is admitted to by the apostate Bishop Anthony J. Bevilacqua:

The History of the Indissolubility of Marriage, by apostate Anthony J. Bevilacqua, 1967: “Canons 26 and 28 admit remarriage for the innocent husband in the case of the divorce of his wife because of adultery.”⁷

St. Augustine, Bishop of Hippo

In his *Retractations*, St. Augustine says that divorce and remarriage is one of the most difficult topics to deal with and warned his readers not to follow his opinion blindly because he is not sure of it himself:

St. Augustine, *Retractations*, 426-428: “*Two Books to Pollentius on Adulterous Marriages*: “I wrote two books on adulterous marriages with the desire of solving, according to the Scriptures, to the best of my ability, a very difficult question. I do not know whether I have done this very clearly. On the contrary, I think that I did not reach a perfect solution of this question, although I have clarified many of its obscurities, as anyone who reads intelligently will be able to judge.”⁸

No doubt St. Augustine was uncertain and confused over this topic and thus in some places he seems to allow divorce and remarriage for fornication but in others he teaches the opposite. For example, in 413 in his book *On Faith and Works*, he is not certain if fornication allows for divorce and remarriage:

St. Augustine, *On Faith and Works*, 413: “It does not seem right that whoever puts away his wife caught in adultery and marries another ought to be reduced to the equality of those who put away their wives for another reason than adultery, and remarry.⁴ In the divine expressions themselves it is not clear whether one would be considered an adulterer if, having lawfully put away an adulteress, he should marry again; so that in this case, according to my judgment, one might be pardonably mistaken.”⁹

A Dictionary of Christian Antiquities, by Smith and Cheetham, 1880: “[On] *Remarriage after divorce*: . . . St. Augustine speaks with hesitation (*De Fide et Oper.* c. xix.. Op. tom. vi. p. 221).”¹⁰

In 419 in his book *On Adulterous Marriages*, he seems to contradict himself. In the following quote, he teaches that fornication is a reason for divorce and remarriage:

St. Augustine, *On Adulterous Marriages*, to Pollentius, Book 1, 419: [c. 3] Therefore, in giving the precept, the Apostle does not command the woman to remain unwed after she departs, unless she leaves her husband for that cause alone which makes it lawful for her to depart from him... [c. 5] If he committed fornication, not only would she be permitted to depart, but she would even be permitted to remarry... [c. 6] You have clearly given good advice to wives in urging them not to separate from their husbands, but, rather, to bear with them, although they are aware that the freedom has been given them to be joined to other spouses, if they put away their adulterous husbands.”

But in the following quote from the same work, he teaches fornication does not allow for divorce and remarriage but only separation:

St. Augustine, *On Adulterous Marriages*, to Pollentius, Book 1, 419: “[c. 6] When we say, therefore, that even the woman who has put away an unfaithful husband is

⁷ Published in the Proceedings of the Twenty-Second Annual Convention of the Catholic Theological Society of America, 1967. Pp. 253-308. Page 291.

⁸ b. 2, c. 83.

⁹ c. 19.

¹⁰ v. 2, Marriage, p. 1112.

not given the freedom to marry another, you still maintain that it is indeed lawful, but not expedient. We both undoubtedly agree that the woman who puts away an unfaithful husband ought not to remarry. But this fact is important, namely, that, when both spouses are Christian, we say that a wife is not allowed to marry another if she departs from a fornicator.”

The logical conclusion in his Book 1, until this quote in Chapter 6, is that he is speaking of Christian spouses because he binds them to New Testament verses. If they were not Christian spouses, then they are not bound the Christian laws of marriage, as contained in the New Testament and decreed by the Catholic Church. But in this above quote in Chapter 6, he tells the reader by implication that all along he was speaking of non-Christian spouses in the quotes in which he allows for divorce and remarriage for fornication; if so, then why apply New Testament verse and laws regarding Christian marriage to them! But in Chapter 6, he takes the reader by surprise by referring to Christian spouses as if all along he was not speaking of non-Christian spouses. And here is where he gives his opinion that fornication allows Christian spouse to separate but not remarry.

Hence St. Augustine’s uncertainty and confusion regarding this topic is manifest, as he himself acknowledged in his *Retractations*.

Popes who allowed divorce and remarriage

Pope St. Innocent I

In the following letter, Pope Innocent I implies that the innocent spouse can remarry if he or she obtained a divorce, which hence breaks the bond of marriage:

Pope St. Innocent I, *Letter 36*, to Probum, 5th century: “Wherefore, we decide, in accordance with the prescriptions of the Catholic Faith, that that is the marriage which was established by divine grace in the first place and that the union with the second wife can in no way be legal since the first wife is still alive and was not dismissed by divorce.”

Pope St. Gregory II

Pope Gregory II, *Quod Proposuisti*, 726: “As regards your question what a husband is to do if his wife has been attacked by illness so that she is incapable of conjugal intercourse? It were best if he could continue as he is and practice self-restraint. But since this demands exceptional virtue, the man who cannot live in continence, had better marry. But let him not fail to furnish her with support, since she is kept from married life by sickness, not debarred from it by some abominable offence.”¹¹

Pope St. Zacharias

Apostate Peter Lombard, *Sentences*, 1150: “3. Pope Zacharias [d.752]. Also Pope Zacharias: ‘Did you sleep with your wife’s sister? If you have done this, you shall have neither of them; and your wife, if she did not know of your crime and does not wish to practice continence, may marry in the Lord whomever she pleases. But you

¹¹ *Gregorius II Papa ad varias Bonifatii consultationes. Epistula III.* Contained in *Pope Gregory II On Divorce and Remarriage*, by Kelly, pp. 21-22.

and the adulteress will remain without hope of marriage, and do penance for so long as you live.’¹² ...¹³

“2 ...Pope Zacharias. Hence Pope Zacharias: ‘If any free man has taken a woman of servile condition in marriage, he is not to have license to dismiss her if they were joined by their common consent, except in the case of fornication.’¹⁴ He is discussing those to whom each other’s condition is known when they are joined in marriage.”¹⁵

Councils that allowed divorce and remarriage

Council of Arles, 314

There are two translations of the Council of Arles’ Canon 10. One upholds the opinion that divorce and remarriage between Christian spouse is allowed the other does not. The former has the word “not” and the latter does not. What follows is the translation with the word “not” which upholds the opinion that divorce and remarriage is allowed:

Council of Arles, 314: “Canon 10. Concerning those young men who are Christians who apprehend their wives in adultery and are not forbidden to marry, we decree that, as far as it is possible, counsel be given them not to take other wives while their own, though guilty of adultery, are still living.”

With the word “not” removed, the meaning is the opposite, which upholds the opinion the remarriage is not allowed. The definitive proof that “not” is in the original is the last part of the decree which says,

“We decree that, as far as it is possible, counsel be given them not to take other wives.”

Counsel gives men advice not commands. Hence if remarriage was forbidden by this law (as would be the case if the word “not” was not in the decree), then it is not a matter of counsel but of command, of necessity under pain of sin. Hence the decree would have been worded like this:

“We decree that they may not take other wives.”

The translation with the word “not” is contained *Gratian’s Decretals*, in the works of Petavius, and other sources. The translation without the word “not” is contained in *Mansi* (2, 472), Hefele’s *History of the Councils*, and other sources:

Divorce and Remarriage, by apostate Rev. Victor J. Pospishil, Canon Lawyer, 1967: “In some manuscripts the particle ‘not’ is missing, but the Codex Herovallianus (Heronville) supplies it. However, even without it the meaning would be clear, because otherwise why should they be counseled not to marry if they could not marry anyway? Jacques Petit, who in the seventeenth century prepared an edition of the acts of the council, quotes St. Augustine’s opinion on this decision: ‘The Fathers of this very renowned council do not inflict any punishment but give only a counsel. Thus, the Fathers say that the matter is not forbidden.’ ”¹⁶

¹² Footnote 3: “Gratian, *Decretum*, c32 q7 c23.” And PL. 89:959

¹³ b. 4, dist. 34, c. 5.

¹⁴ Footnote 4: “Cf. *Excerptiones Ecberti Eboracensis*, n124.”

¹⁵ b. 4, dist. 36, c. 1.

¹⁶ Published by Herder and Herder, NY, NY, 1967. Appendixes, no. 3, p.184.

Council of Vannes, 465

A Dictionary of Christian Antiquities, by Smith and Cheetham, 1880: “*Remarriage after divorce...* Remarriage in the man is by implication permitted by the council of Vannes, A.D. 465 (can. ii.. Hard. Concil. tom. ii. p. 797).”¹⁷

Council of Vannes, 465: “Canon 2. Those also who have abandoned their wives, except for the cause of fornication, as the Gospel says, without proof of adultery, and have married others, we decree are to be excommunicated, lest the sins overlooked through our indulgence entice others to the license of error.”

Hence husbands who divorce their wives with proof of adultery and remarry are justified and thus not punished.

Council of Agde, 506

This council allows Christian spouses to divorce and remarry only for a good cause and only by a declaration from a bishop:

Council of Agde, 506: “Canon 25. Inasmuch as they dishonor both their faith and their marriage, those laymen are to be excluded from the communion of the Church and from the holy community of the people who dismiss or have already dismissed their conjugal fellowship because of a grave fault and who do not offer any satisfactory grounds for the severance, and thereby forsake their marriage for no other reason than that they may presume to form relationships that are unlawful or with other men’s wives, if they put away their wives before they have declared the cause of the separation in the presence of the bishop of the province, and before their wives have been condemned by the court (civil).”

Council of Verberie, 752

Council of Verberie, 752: “[PALEA. C. 6.] If a woman plotted her husband’s death with others, and her husband killed one of them defending himself, the husband may prove her complicity and, in our opinion, dismiss his wife and take another if he wishes. Let the conspirator herself be subject to penance, without hope of marriage.”

Council of Compiègne, 756

Roman legates attended this council:

The History of the Indissolubility of Marriage, by apostate Bishop Anthony J. Bevilacqua, 1967: “Shortly after the Council of Verberies, the Council of Compiègne was convened in 756. Present at the Council were two Roman legates, George, bishop of Ostia, and John the Sacellarius. Also present was an ambassador from the Emperor Constantine V Copronymus. Separation is decreed of obligation if the wife commits incest with her brother-in-law; in which case the husband has the right to remarry (canon 11). Separation was also obligatory if the husband contracted spiritual affinity with his wife by acting as god-parent to a step-child at confirmation. In this case, however, neither the husband nor the wife could remarry (canon 15).

¹⁷ v. 2, Marriage, p. 1112.

“Contrary to the Council of Verberies, remarriage is permitted if one partner permits the other to enter the religious life (canon 16). If one of the spouses contracts leprosy, the marriage may be dissolved by mutual consent and the party free from the disease may marry again (canon 19). Also contrary to the Council of Verberies, compulsory flight from one’s country does not give the right to remarriage (canon 21).

“Canon 9 contains a strange ruling. A vassal follows his lord to a new fief. Upon the lord’s death a new lord gives the vassal a wife. After a time, the vassal returns to the family of his first lord and marries another wife on their estates. The canon decrees that the second marriage and not the first must remain intact (canon 9).¹⁸

“The Councils of Verberies and Compiègne continued what the Penitentials of Theodore had begun. The Frankish Church accepted their decrees as authoritative. Some of the canons became incorporated in collections of Benedict Levita, Regino of Prum and Burchard of Worms. Divorce seems to have acquired ecclesiastical sanction. The Church had compromised with the Frankish secular law and customs.”¹⁹

Annulment is divorce by another name

The opinion the Jesus forbid divorce and remarriage for any reason and that no pope can change that law did not begin to make steady progress until the 12th century:

Divorce and Remarriage, by apostate Rev. Victor J. Pospishil, Canon Lawyer, 1967: “After a study of the testimony of tradition given in the following sections and of the pertinent texts in the appendixes, the reader will understand why one can consider as exaggerations such statements as, for example, ‘The Catholic Church and Catholic theology have always maintained...’ or ‘The testimonies of the Fathers and of the councils leave us no room for doubt that...’ This is simply not true. There are only a few documents before the end of the first millennium attesting to the absolute rejection of divorce. Only after the reform of Cluny in the tenth century and the foundation of the first universities can it be said that the Western Church established a clear policy and doctrine prohibiting divorce; and the fact is that there is no document of the first centuries which would clearly and unequivocally exclude divorce in the case of adultery on the part of the wife and at the same time forbid a subsequent remarriage of the innocent husband. Or to say it more plainly: there are no witnesses of the early Church... which would support the present Catholic doctrine on the indissolubility of sacramental marriages.

“For the present purpose it would be sufficient to submit testimony by a not too small number of witnesses to the effect that divorce and remarriage were permitted in not too rare instances. This would establish the absence of a uniform, determined doctrine on this subject. But actually the passages gathered from the writings of various authors and the canons of synods, patriarchs, and popes, insinuating the permissibility of divorce are so numerous that there cannot be any doubt of the absence of the principle of absolute indissolubility...

“One can assert, speaking only quantitatively, that is, looking at the amount of documents from those times, and not so much to the qualitative value of each, that up to the eleventh century there was no difference between the Eastern and Western Churches in the question of divorce. It was permitted for many grounds, although isolated voices were heard which sought to allow divorce on the basis of adultery alone. These few representatives of a stricter interpretation of the law on divorce gained a larger audience during the Gregorian reform, so that in the Western Church of the twelfth century it came to be accepted, at least theoretically, that all divorces

¹⁸ Footnote 101: “*Pippini Regis Capitulare Compendense*, cc. 9, 11, 15, 16, 19, 21.”

¹⁹ p. 295.

of sacramental marriages are forbidden. The tradition of the ancient Church and the practice of the Eastern Churches was ignored...²⁰

As the opinion that divorce and remarriage is forbidden for any reason became the dominate opinion, divorce and remarriage was still allowed (such as for impotence or taking religious vows), but it was no longer called divorce but was called annulment. Hence, some have rightly referred to annulments as Catholic divorce and pointed out the hypocrisy, just as natural family planning to prevent conception is called Catholic contraception.

After all, an annulment means that something has to first exist before it can be annulled. It is one thing for the marriage rite to be null and void due to improper form or matter and thus never existed but quite another thing for the marriage rite to be valid and then annulled.

Some dishonestly make the case the annulments declare that the marriage rite was invalid and thus the marriage never existed. This would only be true if the marriage rite was invalid due to improper form or matter, which includes the inability of the spouses to marry (such as if the woman is married to another man).²¹ But so-called annulments of valid marriages dissolve the marriage bond and thus are divorce by another name.

For example, annulments can be given for impotence that is discovered after marriage (known as antecedent impotence). The non-impotent spouse can either remain married or appeal for an annulment which breaks the bond of marriage and allows the non-impotent spouse to remarry. Proof that the marriage bond existed is if the non-impotent spouse does not appeal for an annulment, he or she simply remains married and thus does not have to get married again.

The same applies to annulments given to a spouse who takes religious vows in which the marriage bond is broken and the spouse who does not take religious vows is free to marry again. This marriage existed up until the point that one spouse took religious vows and thus the marriage bond was dissolved and not declared to have never existed. Hence is another example that annulment is just another name for divorce.

Those who called divorces annulments knew about this dilemma and thus formulated a new theology to defend their opinion in which they split marriage into two phases and thus had two kinds of marriage: unconsummated marriages and consummated marriages. For at least the first 1000 years of the Catholic Church there was no separate category for marriages that were not consummated and marriages that were.²² If the marriage rite was valid, the spouses were married and the full sense of the way. In the 12th century several theologians began to make a distinction between marriages that were consummated and not consummated. Some, such as the apostate Gratian, said that marriages that are not consummated are not marriages at all; hence the spouses had to consummate the marriage after their marriage rite for them to be married. But others said that if that were true, then St. Joseph and the Blessed Virgin Mary were not married because they never consummated their marriage. Then others came up with another theology which split marriage into two categories. Some referred to unconsummated marriages as imperfect marriage and consummated marriages as perfect marriage. But this was also an insult to Joseph and Mary by making their marriage imperfect. Others said that unconsummated marriages are incomplete marriages while consummated marriages are complete marriages. But this, too, is an insult to Joseph and Mary by making their most holy of all marriages incomplete.

The reason the theologians did this was to pretend to uphold their opinion the divorce and remarriage is never allowed for any reason by applying this only to consummated marriages but not to unconsummated marriages because unconsummated marriage, according to their new

²⁰ c. II, sec. 1, pp. 44, 48.

²¹ These impediments that make the marriage rite null and void came to be known as diriment impediments. Even though the 1917 Code of Canon Law is invalid and heretical, it teaches the truth in this regard: "Canon 1036. A diriment impediment not only gravely forbids the marriage, but also makes its celebration null and void. Though the impediment may be on the part of only one of the parties, the marriage is nevertheless illicit and invalid."

²² Hincmar of Rheims (d. 882) is said to be the founder of this opinion. But it did not begin to become popular until the 12th century.

theology, are imperfect or incomplete. For example the nominal Catholic Encyclopedia teaches this:

Nominal *Catholic Encyclopedia*, Divorce: “The Catholic doctrine on divorce may be summed up in the following propositions:

“1) In Christian marriage, which implies the restoration, by Christ Himself, of marriage to its original indissolubility, there can never be an absolute divorce, at least after the marriage has been consummated;...

“3) Christian marriage before consummation can be dissolved by solemn profession in a religious order, or by an act of papal authority...”

The question must then be asked, If unconsummated marriages are marriages nevertheless, then in order for the spouses to remarry the marriage bond, imperfect and incomplete as it is, must still be broken, which is divorce, the dissolution, the breaking, of the marriage bond.

In Matthew 19:9, Christ did not make any distinction between consummated and unconsummated marriages. And neither did any Catholic or so-called Catholic until Hincmar of Rheims and in the 9th century and then others in the 12th century. And it was not taught by any pope or so-called pope until apostate Antipope Alexander III (d. 1181) in the 12th century.

Those who acknowledge the need of an infallible papal decree

In the 16th century and before the Council of Trent, the apostate Thomas Cajetan said the following:

Apostate Thomas Cajetan (d. 1534), *Commentary on Mt. 19:9*, 16th century: “But what about dismissing a wife of fornications, and the other, under the leadership, of the text, this has nothing to say. ... He that leaves his wife for the cause of fornication and shall marry another does not commit adultery. I respond that the sound of the text is according to the plain literal sense: But, since I do not dare to oppose the torrent of doctors and ecclesiastical judges, I have nothing to regulate the text dismissing a whore. I understand, then, that out of this, the law of the Lord Jesus Christ, a Christian should be allowed to divorce his wife for sexual immorality, according to the flesh of the unlawfully fornicating wife, and to be able to marry another wife, always safeguarding the Church’s definition, which up to now does not appear.”²³

If the Council of Trent were a valid Catholic council, then the opinion that Jesus Christ does not allow divorce and remarriage for adultery would be infallible. However, not only is that council invalid but it contains several heresies, other errors, and contradictions. And its teachings on divorce and remarriage are not only inadequate for not addressing many important topics but also contain contradictions. Hence some nominal Catholic theologians after that council still believed that an infallible papal definition is needed to clearly and completely define which opinion it true. For example, even though Bishop Anthony J. Bevilacqua was an apostate and his article titled *The History of the Indissolubility of Marriage* (1967) contains errors, willful ambiguity, deceptions, and omission (though not as many as others dealing with this topic), he nevertheless acknowledged that a pope is needed to infallibly settle this legitimate dispute:

²³ Thom. de Vio Cajetan. in Matt. xix. 9.—Comment. in S. Scripturis, ed. Lugd. 1639, tom. iv. p. 86.—Quid autem sit de dimittente uxorem fornicariam, et aliam ducente, textus iste nihil dicit. ... Si instes, illud diversum nihil aliud esse nisi quod propter fornicationem dimittens uxorem et aliam ducens non moechantur, respondeo sic sonare textum secundum planum literae sensum : sed, quoniam non audeo opponere me contra torrentem doctorum, et iudiciorum ecclesiasticorum, ideo dixi textum nihil disponere de dimittente fornicariam. Intelligo igitur, ex hac Domini Jesu Christi lege, licitum esse Christiano dimittere uxorem ob fornicationem carnalem ipsius uxoris, et posse ducere aliam uxorem, salva semper Ecclesiae definitione, quae hactenus non apparet, &c.

The History of the Indissolubility of Marriage, by apostate Bishop Anthony J. Bevilacqua, 1976: “Conclusion: ... There seems to be no doubt that within the near future the question of divorce and remarriage in the Catholic Church will become a very controversial issue. It is essential that the Church be able to engage in the controversy with objectivity and clarity. Unfortunately, the history of the permanence of the marital bond has been neglected. More research into this teaching is required and urgently required. It is hoped that this general study presented in this article will in some small way stimulate others to carry out more original and deeper research into this area of vital importance to the Church.”²⁴

I have much more evidence dealing with this topic and related topics, but this will suffice for now. If I have some spare time, I will publish a book regarding this topic and related topics. Look forward to a future pope to infallibly define that Jesus did allow for divorce and remarriage for adultery and similar sins and that popes have the authority to allow divorce and remarriage for other good reasons because the laws dealing with divorce and remarriage are disciplinary laws. And this applies not only to unconsummated marriages but also to consummated marriages.

For the glory of God; in honor of the Blessed Virgin Mary, St. Michael, St. Joseph, Ss. Joachim and Anne, St. John the Baptist, the other angels and saints; and for the salvation of men

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²⁴ P. 306.