

The Archbishop of Canterbury's group which reported recently on the reform of the law of divorce¹ have done an excellent piece of work. Their central recommendation, as everyone knows, is that we should do away with all talk of 'guilty' and 'innocent' parties and 'matrimonial offences' and that divorce should simply amount to a legal recognition that a marriage has broken down and that there is no reasonable prospect of mending it. As in nullity proceedings in which we ask whether there was a sacrament of marriage in the first place, so in the divorce court we should ask whether there is, to all human appearances, a marriage here and now. While the desire of both parties to be divorced would be a factor in assessing the viability of the marriage, it would not be a decisive one. 'Divorce by consent' would be ruled out in theory by suggested reform no less strongly than it is by the present law, and in practice it might become more difficult. There would, of course, no longer be a legal guarantee that if you get married and remain 'innocent' (in a special sense of that term) and sane, no one can take your married status from you. The group recognised this as a serious objection but in the end concluded that the loss of the guarantee is an evil that should be endured. 'We are convinced that anything so unnatural as divorce is bound to carry ill consequences that no conceivable human law could obviate. Our claim therefore is the modest one that, of the alternatives available to contemporary society, a law based on breakdown would be the lesser evil by a very considerable way.'

As a useful side-effect, the report may help to dispel the popular belief that the Church of England somehow 'believes in divorce' when a matrimonial offence has been committed. The group are quite uncompromising about the indissolubility of marriage – they reject, for example, the interpretation of Matthew 5.32 which would make Christ allow for divorce in the case of adultery. Their concern, however, is not with the christian doctrine of marriage but with the practice of English courts for which they feel a certain responsibility, partly as the established church of the land and partly because the present divorce law has its historical roots in the canon law dealing with separation. At one time it was perhaps possible (relying heavily on Matthew 5.32) to believe that the English divorce law was

¹*Putting Asunder—A Divorce Law for Contemporary Society* S.P.C.K. 10s. 6d.

consonant with christianity but 'Today it is manifestly impossible that the Church should accept the matrimonial law of the land as satisfactory for its own purposes'. Given, however, a society that practices (in their excellent phrase) 'successive polygamy' the problem is to see how the evil effects of this can be mitigated. One of the best things about the report is its clear recognition that England is, from the christian point of view, a primitive society which has a long way to go before it will begin to embody the kind of human life that is represented in the sacraments. The christian doctrine of marriage, as of other things, represents a revolutionary challenge to our institutions, but meanwhile there is a place for the reformer who tries to make them work with the minimum of injustice.

It is interesting to compare the group's report with the joint pastoral letter of the South African bishops which appeared about the same time. On the face of it there are certain parallels between the two situations: the institution of apartheid, like that of divorce, is plainly compatible with christianity and yet in both cases there is a widespread belief that society cannot do without them. In neither case is moral indignation by itself a sufficient response; what is needed is a practical programme for dealing with it, and we have to decide whether to accept the evil institution for the time being and mitigate its effects or whether to work for its destruction. The former course is the one taken by the Archbishop's group faced with the problem of divorce and it has also been the one taken in practice by the roman catholic church in South Africa faced with apartheid. It is worth asking why what is appropriate in the first case is utterly inappropriate in the second? The single reason is that whereas divorce in modern England, like slavery in the time of St Paul is something taken for granted by the great majority of the community, apartheid is something imposed upon the community by a small powerful group who dare not even allow representatives of the majority to make their voices heard. To tolerate a law of divorce is to accept the community as a whole with all its imperfections; to tolerate apartheid is to side with a small party *against* the community as a whole. In these circumstances it is not enough to say as the bishops said, 'Discrimination is to be eradicated as contrary to God's intent'. – The same thing could be said of divorce in some ideal future society. Nor is it enough to say in the abstract: 'If any laws make the exercise of these (human) rights unnecessarily difficult or almost impossible, all legal means must be used to have them changed'. What the people of South Africa have a right to expect from the church is a concrete programme for the destruction of this evil, and leadership, or at least co-operation, in the day to day struggle against it.

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