

THE INDISSOLUBILITY OF MARRIAGE¹

*A Medieval Disputation
between*

*The Very Rev. Hilary Carpenter, O.P., Provincial, Defender, and
the Rev. Thomas Gilby, O.P., Objector, with the Very Rev. Ambrose
Farrell, O.P., as Moderator*

MODERATOR: The Medieval Disputation is a method of expounding and defending the truth; not just a battle of words or of ideas between opposing camps. Both disputants strive to maintain their respective positions by each employing his logical ingenuity as a foil to the other, but only that in the end the truth defended may become more glaringly clear both to themselves and to their audience. The medieval method of disputation was much in vogue in the thirteenth century and for long afterwards. The great Dominican philosopher-theologian, St Thomas Aquinas, was one of its chief exponents, and it is to his Order and style that the present team belongs.

The subject of this disputation is, of course, of the greatest contemporary interest, but the medieval method is well fitted to deal with it. Both disputants, approaching the subject from opposite angles, will bring their mental energies to bear on the single conclusion which both are determined to uphold, namely, that the marriage contract is indissoluble. The Defender will first of all expound his thesis, giving his arguments in support of it. It will then be the Objector's business, in the manner characteristic of the medieval disputation, to attack the thesis in strict syllogistic form.

If the word syllogistic is strange to some of you, nevertheless what it stands for is no doubt very familiar to you in practice, for it represents the bare bones, so to speak, of all valid human reasoning. In its most elementary form the syllogism can perhaps best be explained by a simple example. Thus, to prove that men are animals:

All food-eaters are animals
But men are food-eaters
Therefore men are animals.

¹ The text of a Disputation broadcast in the Third Programme of the B.B.C. from Cheltenham on January 23, 1958.

The first statement is called the major proposition. The second is called the minor proposition; and the third is called the conclusion. But a certain confusion or fallaciousness is likely to occur, even in argument of this kind, because it is extremely difficult in practice to formulate a statement which is exactly and completely true. Supposing, for example, it was proposed to follow up the previous argument by trying to prove that men eat grass:

Animals eat grass

But men are animals

Therefore men eat grass—

It is clear that a distinction must now be made between rational and irrational animals.

So the Objector tonight will present his first objections in the form of syllogisms and the Defender will apply the necessary distinctions. Even when the Objector shifts his mode of attack and presents arguments in a less formal and more verbose fashion, the Defender's part will be to reduce each argument to its elementary syllogistic form and to treat it with dispassionate logic, and so continue to demonstrate the impregnable nature of his original thesis.

Without more ado, therefore, I now call upon the Defender, Father Hilary Carpenter, to open the disputation on the thesis 'Marriage is Indissoluble'.

DEFENDER: The thesis to be defended is that marriage is indissoluble, and it is to be understood that we are talking of valid marriage. Moreover, though we are in fact concerned with marriage within the Christian environment, it is of importance to recognize at the outset that the true Christian view of marriage is based upon the implications of the natural law which embodies the proper mode of action in created beings as implied in the needs and capabilities of their natures, needs and capabilities which together indicate their purpose. The natural law is not a law imposed from without (except in the important sense that the nature of things is designed by the Creator); it is a law that is constituted by the natures of things in themselves and is the only guarantee of attainment of their ultimate purpose. As far as man is concerned, therefore, the natural law is the articulation of those precepts which arise from his own basic needs and his capability of fulfilling those needs in order to attain his ultimate purpose in life. It is the law of

his appetites, a law which (as with all law) implies rights and duties, fulfilment and restraint.

Amongst the basic needs and capabilities of human nature is the propagation of the race. Not every individual is obliged to fulfil that need or use that capability; but any individual that chooses to do so is thereby bound by the purpose and consequences of this fulfilment. The primary purpose of marriage is the procreation and education of offspring. It flows from a natural instinct of love which binds together a man and a woman and their offspring in the close unity of a natural society, the family. The primary purpose of this basic society is the good of the offspring, and therein is the fundamental natural indication of permanence in the marital union of man and woman, to guarantee which they engage in a mutually agreed and permanent contract, and one not primarily for their own individual benefit. A cardinal point to be noted, therefore, is that the relationship established in marriage, in itself a unique relationship, is not primarily intended by nature for the benefit of the two who enter upon it; it is primarily intended by nature for the sake of the family, which in its turn is for the sake of the race. This is the fundamental principle of the natural law underlying the argument for the indissolubility of marriage. In Christian marriage, however, it is to be observed that the spiritual good of the partners takes precedence over the natural primary purpose.

Now, though love is the natural bond of union in the family unit, this is not to say that the permanence of marriage depends upon the permanence of love between the contracting parties. Even if love should cease, the initial obligations of the contract remain. Moreover the love in question is not just the love of self-satisfaction; it is the love, well exemplified even on a purely natural level, which knows restraint and self-sacrifice, a love that is to be safe-guarded and maintained—for better or for worse. No new love can be allowed to intervene. The tendency towards such new love may arise, for love is fundamentally instinctive. But human love is also rational and must be rationally controlled. Nevertheless, even if a new love is wrongly allowed to intervene, it does not and cannot destroy the free contract already made nor eliminate the obligations of that contract.

Clearly the contract of marriage is not to be aligned with any other form of human contract. It is unique, as I have said, and

this for the very reason that it is essentially bound up with a basic requirement of the natural law. It is made freely by the contracting parties—otherwise it is not in fact made at all; but its essential implications are such that this contract cannot be broken or dissolved either by the contracting parties themselves or by any human authority. 'Whom God hath joined together, let no man put asunder' is an expression of natural as well as of divine law. By the contract of marriage the man and woman put themselves into a relationship of body and soul with one another whereby they constitute a unity of such completion that it cannot be broken again except by death. It is of itself otherwise indissoluble.

Therefore, even though the primary purpose of marriage is the propagation and education of the race, the actual absence of the one or the completion of the other in individual cases does not militate against the required permanence of the union, for this permanence is of the very nature of the contract and is established at the moment the contract is made. Even when, for grave and sufficient reason, an actual separation is agreed upon or approved by a competent authority, whether Church or State, the obligation one to the other between the contracted parties remains virtually in force.

There are also secondary purposes of nature in the marriage union which are of notable value. There is the physical expression of love between man and woman; but this is not an end in itself; the marriage contract entirely justifies it, but does not depend upon it; nor does love itself depend upon it. There are also the mutual comfort and help, the sharing of every aspect of life, all that we know as the home atmosphere. These also are expressions of love; they grow with the years and call for that permanence which alone can guarantee them, whether in individual cases or in respect of the institution of marriage as a whole. But even if, for one reason or another, these secondary purposes are not achieved, the obligation of the initial contract between the parties concerned remains in force. If the keeping of the marriage vow demands self-sacrifice, this is not a thing unknown in human relationships.

Arguments may be adduced, and no doubt will be, against the indissolubility of marriage viewed as a natural human relationship and contract. But whatever arguments on the purely natural plane may be adduced, it must be said here that none can be

adduced with any show of validity against the indissolubility of Christian marriage in the light of the positive teaching of Christ. Yet, at the same time, it is to be noted that, in this context as in so many others, our Lord did but sanctify something essentially natural, a unique relationship of absolute unity that was explicitly established by God himself from the beginning of the human race, as Christ himself did not fail to remind his hearers. This is not to say that Christ added nothing to marriage considered as a natural contract. On the contrary he instituted it afresh as a Sacrament. Throughout the history of mankind, marriage has always been regarded as something sacred, both amongst simple and also amongst truly civilized peoples. Failure so to regard it in any general way has always been a sign of decadence in any civilization. But our Lord raised this naturally sacred thing to the supernatural plane, raised its status, its purpose and the means to attain that purpose, and in so doing he not only confirmed the indissolubility of marriage but also increased immeasurably the possibilities of that communion of mind and heart which marriage signifies and he provided the supernatural means whereby that unity might be maintained even, if necessary, under the greatest human difficulties. Human love is still the bond of unity in Christian marriage, but now it is a love that partakes of the quality of Christ's own love. Thus, speaking of marriage as a great Sacrament, St Paul compares it with the union of Christ and his Church (*Cf. Ephes., 5*). But it is a love that gives rather than receives, a love that inevitably implies sacrifice, sometimes even a supreme sacrifice as his did, and the sacrifice is made possible by the supernatural grace of which the Sacrament of Matrimony is the instrumental cause.

Grace perfects nature. The purposes of Christian marriage, both primary and secondary, remain essentially the same as those of natural marriage, but they are perfected in quality immeasurably by the grace of the Sacrament. If these purposes require permanence on the natural plane, as we have shown, they require it far more on the supernatural plane.

Therefore, whether from the requirements of the natural law, or from the ordinance of the Creator, or from the implications of Christianity, or from the explicit statement of Christ himself, marriage is indissoluble.

And this suffices for the exposition and proof of the thesis. If,

however, any difficulties remain, no doubt they will be solved in the course of the objections.

MODERATOR: Now that the Defender has completed the outline of his defence, the Objector, Father Thomas Gilby, will begin his attack upon the thesis. This will first be delivered and met in strict syllogistic form.

OBJECTOR: All very well, Reverend Father, but marriage is not indissoluble. Therefore the thesis is false.

DEFENDER: Marriage is not indissoluble. Therefore the thesis is false. In this fashion it pleases my reverend colleague to argue against me. Be good enough to prove the antecedent proposition.

OBJECTOR: I prove the antecedent proposition thus:

No human contract is indissoluble;

But marriage is a human contract;

Therefore marriage is not indissoluble.

DEFENDER: With regard to the major proposition: No human contract is indissoluble, I distinguish:

No human contract not implying permanence is indissoluble—
I agree;

No human contract implying permanence is indissoluble—
I deny.

With regard to the minor proposition: Marriage is a human contract, I counter-distinguish in the same sense:

Marriage is a human contract implying permanence—I agree;

Marriage is a human contract not implying permanence—I deny.

Therefore I deny the conclusion that marriage is not indissoluble, or that it follows from the sequence of the argument. And I will explain the force of the distinction I have made.

The distinction was indicated in my exposition of the thesis. The contract of marriage is not just like any other human contract; it is one involving a basic principle of the natural law providing for the propagation and natural benefit of the species, and this not only in respect of individuals but also in respect of the race

as a whole. This provision demands a unique relationship which itself includes a life-long permanence of the initial contract as a necessary requirement. It may be that no other human contract thus demands permanence and therefore can be dissolved. But the contract of marriage, viewed in its complete implications, does demand a life-long permanence and is therefore indissoluble. Thus no difficulty remains.

OBJECTOR: But marriage is a human contract not implying permanence. Therefore the difficulty does remain.

DEFENDER: But marriage is a human contract not implying permanence. Therefore the difficulty does remain. Be good enough to prove the minor proposition in its new form.

OBJECTOR: I will prove the revised minor proposition:
 The contract of marriage is a matter of human love;
 But human love does not imply permanence;
 Therefore the contract of marriage does not imply permanence.

DEFENDER: With regard to the major proposition: The contract of marriage is a matter of human love, I distinguish:
 The contract of marriage is ideally a matter of human love—
 I agree;
 The contract of marriage is necessarily a matter of human love
 —I deny.

With regard to the minor proposition: Human love does not imply permanence, I counter-distinguish in the same sense:

Human love does not necessarily imply permanence—I agree;
 Human love does not ideally imply permanence—I deny.

Therefore I deny the conclusion that the contract of marriage does not imply permanence or that it follows from the argument. I will explain the point of the distinction I have made.

Love between man and woman is a natural emotion, primarily (though not exclusively) directed to the propagation and preservation of the race. It is the urge of nature leading to the contract of marriage and it is the natural bond of union between the parties once the contract is made. This is the ideal condition of the marriage contract, but it is not the necessary one. In its essence the marriage contract is a free and deliberate act on the part of the

two concerned, not merely an emotional one. It may be entered upon initially without love and remains in force even if love ceases. In the counter-distinction of the minor proposition, it is pertinent to the thesis to observe that, though human love does not necessarily find permanence, nevertheless of its very nature it does call for permanence. Thus the instinct of the lover is to proclaim that his love is eternal. This is especially true of marital love with its note of complete surrender and its unique oneness of soul and body. Nevertheless such love is not of essential necessity either to the making or to the maintaining of the marriage contract. Therefore no difficulty remains.

OBJECTOR: But the contract of marriage is necessarily a matter of human love. Therefore the difficulty still remains.

DEFENDER: But the contract of marriage is necessarily a matter of human love. Therefore the difficulty still remains. Be good enough to prove the major proposition in its new form.

OBJECTOR: I will prove the revised major proposition:

Intimately personal engagements are necessarily matters of human love;

But the contract of marriage is an intimately personal engagement;

Therefore the contract of marriage is necessarily a matter of human love.

DEFENDER: With regard to the major proposition: Intimately personal engagements are necessarily matters of human love, I distinguish:

Intimately personal engagements are necessarily matters of human love for a common object—I agree;

Intimately personal engagements are necessarily matters of mutual love—I deny.

I concede the minor proposition that the contract of marriage is an intimately personal engagement.

And I distinguish, therefore, the conclusion:

The contract of marriage is necessarily a matter of human love for a common object—I agree;

The contract of marriage is necessarily a matter of mutual human love—I deny.

And I further deny that this concession in the conclusion militates against the indissolubility of marriage. I will explain the force of the distinction I have made.

Human love, at its best and most true, is not merely an emotional relationship between individuals; it includes also a higher rational element which rightly tends more and more to outweigh the purely emotional element. Moreover in marriage, though this love should be mutual between the partners, it need not be so either for entering upon or for maintaining the contract. It can be a love centred upon something objective which they have in common. It can be centred on the offspring, for instance; or it can be centred upon an ideal, on fidelity to an oath taken, for example; or it can even be centred on some less worthy or exalted object. But, for the point at issue, neither absence of mutual love on the initiating of the contract nor its subsequent cessation, if this should happen, militates in any way against the permanence of the said contract. Therefore no difficulty remains and the original statement of the thesis stands: Marriage is indissoluble.

MODERATOR: The Objector will now change the form of attack, leaving the formal syllogism for a more informal, less simple, though perhaps more familiar, mode of presenting objections. These the Defender will aim, for the sake of clarity, to reduce to their essential syllogistic elements.

OBJECTOR: For my first, may I pick up your last reply? Call marriage indissoluble and you create an insoluble problem. It is a workmanlike arrangement meant for most people without appealing to unearthly values. No doubt an enduring association is not unsatisfactory in the majority of cases, but not rarely its maintenance calls for heroic virtue, or what looks like it. Of course heroism is admirable, but it cannot be *commanded* by any system of law, and of this we are talking; moreover it cannot be *counselled* when an intolerable strain and settled misery sets up greater evils, moral evils too, than the alleged infidelity of making a break. I need not cite poignant examples—most of us can find them for ourselves.

DEFENDER: The first informal objection can be reduced to the following syllogism:

A contract sometimes only to be kept by the exercise of heroic virtue is not indissoluble;

But marriage is a contract sometimes only to be kept by the exercise of heroic virtue;

Therefore marriage is not indissoluble.

With regard to the major proposition: A contract sometimes only to be kept by the exercise of heroic virtue is not indissoluble, I distinguish:

A contract sometimes only to be kept by the exercise of heroic virtue and not involving natural or divine law is not indissoluble—I agree;

A contract sometimes only to be kept by the exercise of heroic virtue but involving natural or divine law is not indissoluble—I deny.

With regard to the minor proposition, that marriage is sometimes a contract only to be kept by the exercise of heroic virtue, while I agree to the statement of fact, nevertheless the distinction made in the major proposition applies, for the contract of marriage involves a requirement of the natural and divine law.

Therefore I deny the conclusion that marriage is not indissoluble, and I will explain the force of the distinction.

We must readily admit that the maintenance of the marriage contract does, in certain circumstances, call for something very like heroic virtue on the part of very ordinary people. But it must be maintained that such virtue *can* be exercised by quite ordinary people, especially with the help of God's grace, and in certain circumstances *must* be exercised, namely to avoid an infringement of natural or divine law in a matter of sufficient gravity. Even in less compelling circumstances heroic virtue may be demanded; an obvious example is that of the courage sometimes demanded of a soldier in battle in obedience to a legitimate command. The necessity of heroic virtue is not to be estimated by the grievousness of the self-sacrifice implied, but by the gravity of the circumstances that demand it. I do not wish to minimize the self-sacrifice sometimes involved in maintaining the marriage contract, but the obligation of permanence in this contract is of such gravity that it must be maintained even at the cost of heroic virtue. Therefore no difficulty remains.

OBJECTOR: I continue with a variation of the same theme, a plea for a humane rather than a mechanical approach to the subject. We are not arguing romantically but on grounds of the common interest. Very well, we can leave outside the gallant impulse which wants to commit itself for life and keep to the need for social stability. Now the civilized human community is not just a collection of units on all of which uniform regulations can be flatly imposed. Its citizens are not just married males or married females, but persons none of whom is exactly identical with another. One mark of its strength is that it can recognize exceptions without thereby sapping the general rule. From the time of Plato moral philosophers have seen here the place of equity; St Thomas Aquinas called it the noblest part of justice. My argument, as you see, is not for easier divorce—for permanent marriage should be the rule—but for circumstances changing cases. I submit that the rigidity of your thesis exhibits the sort of fanatical legalism which in effect amounts to barbarism.

DEFENDER: This second informal objection can be legitimately reduced, I think, to the following syllogism:

Laws regulating human relationships are open to exception;
 But the permanence of marriage in a civilized community is a law regulating human relationships;
 Therefore the permanence of marriage in a civilized community is open to exception.

With regard to the major proposition: Laws regulating human relationships are open to exception, I distinguish:

Man-made laws regulating human relationships are open to exception—I agree;

Natural or divine laws regulating human relationships are open to exception—I sub-distinguish:

—open to exception by the Lawmaker (God)—I agree;

—open to exception by any other authority—I deny.

With regard to the minor proposition: The permanence of marriage in a civilized community is a law regulating human relationships, I counter-distinguish:

The permanence of marriage in a civilized community is a natural and divine law—I agree;

The permanence of marriage in a civilized community is a man-made law—I deny.

Therefore I also distinguish the conclusion thus:

The permanence of marriage in a civilized community is open to exception—by the Law-maker (God)—I agree;
—by any other authority—I deny.

And I will explain the point of the distinction I have made.

It is important to insist that, though the relationship of marriage is established by the contracting parties themselves, under a certain proper control by ecclesiastical and/or civil authority, the law touching the essential purpose and obligations of marriage is not made either by the contracting parties or by ecclesiastical or civil authority; it is a law arising from nature and promulgated by God, the Lawgiver. That is why, for the sake of exactness, I have made the distinction in the conclusion; only God who made the law could exempt from its obligations. Nor does a plea of equity avail here. Granted that equity is the noblest part of justice, there are instances where equity requires adherence to the letter of the law. The indissolubility of marriage is a case in point. This is not a question of personal relationships as against social stability, as you maintain; if it were merely that, exceptions might well be conceivable. But it is a question of personal relationships judged in the light of fidelity to a sworn obligation inherent in the law. In true justice to themselves the contracted parties must remain faithful to their initial obligations even at the expense of grievous personal sacrifice. You have rightly said that we are not arguing romantically; but you therefore exclude what you describe as 'a gallant impulse which wants to commit itself for life'. It is indeed a gallant impulse; but in the context of marriage the will to commit oneself for life is of the essence of the contract—whether it follows upon a gallant impulse or not. Nor is this life-long permanence a mere uniform regulation of units; it is a condition intrinsic to this unique human relationship and one freely accepted by intelligent human beings—who should be all the more readily found in a civilized community. Therefore in a civilized community even more than in any other is marriage to be regarded as indissoluble. So no difficulty remains.

OBJECTOR: You claim that the indissolubility of marriage is prescribed by the natural law. But is it? Much depends on what you mean by the natural law, granted that it exists. Theologians, philosophers, lawyers, anthropologists, all have their own versions,

but most come back to the formulas of two Roman jurists, Gaius and Ulpian: these incidentally are also adopted by Christian divines. The first defined natural law by universal custom as opposed to what was peculiar to a local legal system; the second said that it embodied a sort of instinct as opposed to what was artificial and contrived. On neither count is your claim justified.

Take widespread observance. Some groups, including lower hunters and incipient agriculturists, are on your side, but reference to standard authorities will show that most cultures, low and high—and some of them very stable—have felt that marriage can be safeguarded without excluding good grounds for its dissolution. Even among Christians, I reflect that the Greek Orthodox, who have a high respect for the sacramental dignity of matrimony, are among their number. Indeed, I rather agree with Voltaire that one can appeal to the example of everybody except Roman Catholics. I certainly do not question the competence of any religious group to impose its discipline on its own members, but I object to its annexing the whole of mankind and confusing its own rules with the inherent constitution of things which all should observe.

And now take the biological movement in law. There are some animals, such as magpies, that pair for life; but I think you will assume too much if you think you can discern a deep-seated human impulse in favour of your thesis. In fact such strength as it has seems to me that of a highly sophisticated—I use the word in its best sense—reading of a human being's place in the teleology of the race. It may be well enough as a theory, but fortunately practice can be more genial, and the perennial and, if I may say so, the untutored wisdom of humanity does not seem to say that under no circumstances can one unhappy marriage be changed into a happy one.

DEFENDER: This somewhat elaborate argument can be reduced to the following:

The thesis of the indissolubility of marriage is based upon the requirements of the natural law;

But the natural law does not require the indissolubility of marriage;

Therefore the thesis is false.

The antecedent proposition, that the natural law does not require the indissolubility of marriage, is proved thus:

Neither universal custom nor natural instinct requires the indissolubility of marriage;

But the natural law is either universal custom or natural instinct;

Therefore the natural law does not require the indissolubility of marriage.

To take first the minor proposition, which offers a definition of natural law:

That natural law should be articulated in universal custom—I agree;

That it is necessarily found to be so—I deny.

Again, that natural law is natural instinct, I distinguish:

Natural law is instinct governed by reason—I agree;

That it is instinct ungoverned by reason—I deny.

Now to deal with the major proposition, which is an alleged statement of fact: even a widespread non-observance of a law does not disprove the existence of that law. Where original sin has intervened, even a widespread non-observance of the natural law may be found. But where it is so disregarded nature takes its revenge in the decadence of the community concerned; this is notable where the law of indissolubility of marriage is concerned. It is no doubt for this reason that, in your previous objection, you agreed that permanent marriage should be the rule. But it must also be observed, notwithstanding the dubious authority of Voltaire, that a custom cannot be claimed as universal where a very large proportion of the civilized world, as well as your 'lower hunters and incipient agriculturalists', refuses resolutely to admit it.

No proof is offered that the indissolubility of marriage is against the natural instinct of mankind, whereas the admittedly normal preference for such indissolubility amongst simple and truly civilized peoples alike is an indication of the exact opposite. I readily agree that two people unhappily married might find personal happiness, from a rather narrow angle, with other partners. The point at issue, however, is whether they are justified in so doing. This is not to be determined by any appeal to what you describe as the perennial and untutored wisdom of humanity; a so-called wisdom, however perennial, that is untutored is truly a broken reed. No; the point at issue is to be judged only by reference to the basic implication of the marriage contract and its

accompanying vow. Therefore the thesis of the indissolubility of marriage remains intact.

OBJECTOR: One further point arises out of your last reply, from which I advance the following argument:

Contracts which can militate against human happiness are not indissoluble;

But the marriage contract can militate against human happiness;
Therefore the marriage contract is not indissoluble.

DEFENDER: With regard to the major proposition, I distinguish:

Contracts that can militate against ultimate human happiness are not indissoluble—I agree;

Contracts that can militate against immediate human happiness are not indissoluble—I deny.

I counter-distinguish the minor proposition in the same sense:

The marriage contract can militate against immediate human happiness—I agree;

The marriage contract can militate against ultimate human happiness—I deny.

It is a common experience that something productive of immediate happiness has to be forgone in order to ensure a greater and more ultimately satisfying happiness. The point of the objection turns, therefore, upon the nature of true ultimate human happiness, that is to say upon the true ultimate purpose of human life. If that purpose is to be estimated, as it should be, in the light of eternal happiness, then any present unhappiness which tends to ensure eternal happiness will be justified. But even in the light of a hypothetical ultimate human purpose ending with this present life, fidelity to a solemnly given word, to an ideal if you will, is generally recognized as more than counter-balancing any immediately ensuing suffering. In the matter of what is often called a 'broken' marriage, this is sometimes condemned as an unfeeling and inhuman approach; but the fact is that there can be a very real sympathy for those who thus suffer and a very true sense of humanity, together with a recognition of the ultimate good arising from the suffering. My point is, therefore, that the marriage contract represents an ideal, adherence to which will ensure ultimate happiness even at the expense of immediate present unhappiness. Therefore no difficulty remains.

MODERATOR: Now I avail myself of my privilege as Moderator, if I may, to object to the thesis as follows:

The thesis of the indissolubility of marriage fails if marriage laws are made by Church and State;

But marriage laws *are* laws made by Church and State;

Therefore the thesis of the indissolubility of marriage fails.

DEFENDER: The point of your objection, Father Moderator, is to be found in the proposition that marriage laws are made by Church and State. I distinguish this proposition thus:

Marriage laws are made by Church and State in respect of the conditions of the contract—I agree;

Marriage laws are made by Church and State in respect of the contract itself—I deny.

Therefore I deny the conclusion that the thesis fails.

MODERATOR: Thank you, Father; but I am not entirely satisfied with the force of the distinction. The marriage laws are made by Church and State in respect of the contract too. Therefore the difficulty remains.

DEFENDER: Marriage laws are made by Church and State in respect of the contract too. Therefore the difficulty remains. Be good enough to prove the antecedent proposition.

MODERATOR: I prove the antecedent proposition as follows:

The marriage laws in respect of the contract itself are made for the stability of society;

But it is for the Church and State to make laws for the stability of society;

Therefore it is for the Church and State to make marriage laws in respect of the contract.

DEFENDER: I concede your major proposition that marriage laws are made for the stability of society. But I distinguish the minor proposition:

It is for the Church and State to make laws for the stability of society:

—laws promulgating the divine and natural law—I agree;

—laws contrary to the divine and natural law—I deny.

And therefore I distinguish the conclusion:

It is for the Church and State to make marriage laws in respect of the contract:

—laws promulgating the divine and natural law—I agree;

—laws contrary to the divine and natural law—I deny.

The distinction is obvious. A law which is contrary to the divine or the natural law is a bad law, and neither Church nor State could justly make such a law. But in the matter of the contract of marriage the marriage laws, to be good laws and just laws, must be a promulgation of the divine and natural law, and only in this sense have Church and State the right to make such laws. Therefore no difficulty remains.

MODERATOR: Thank you, Father.

The thesis has been ably defended. The Defender has shown how civilized society rests on the permanence and well-being of the family. The easy relaxation of the marriage bond by divorce is little less than a legalized promiscuity, of which the child is the victim. One of the greatest calamities is a broken marriage and a broken home. Against these widespread evils in society stands the indissolubility of the marriage bond itself arising from the contract, which cannot be dissolved at the will of the parties. The objections raised have failed to weaken in any way this conclusion, which enjoys the full support of centuries of experience and common sense. It is not to be denied that there are hard cases, but hard cases make bad law. As the Defender has proved, in meeting the Objector, there are over-ruling inflexible laws which govern the life-long relationship between husband and wife in the state of wedlock. These laws are not man-made, but originate from God and nature itself, and therefore are unyielding to vacillating affections and changing circumstances. Marriage, then, as understood in Christendom, must continue to remain, in the words of Lord Penzance, 'the voluntary union for life of one man and one woman to the exclusion of all others', without the possibility of divorce.

And so I bring this Disputation to an end.