

THE MATTHEAN DIVORCE TEXTS AND SOME NEW PALESTINIAN EVIDENCE

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THE RECENT publication of a passage from one of the Qumran scrolls that may shed some light on the Matthean divorce texts is the occasion for a fresh consideration of those controverted verses.¹ The Matthean passages are but two among several in the NT which record sayings attributed to Jesus about the prohibition of divorce. Four writers, in fact, have recorded the prohibition that is traced to him. The earliest form of it is found in 1 Cor 7:10–11, but each of the Synoptic Evangelists has also preserved some form of the prohibition: Mk 10:2–12; Lk 16:18; Mt 5:31–32; 19:3–9. In fact, there are, in all, five passages with seven sayings about the dissolution of marriage.

Despite the tone of a controversy-setting that surrounds the pronouncement preserved in Mk 10 and Mt 19, which is sometimes thought to reflect more a later church-synagogue debate² than a discussion of the historical Jesus with the Pharisees, two features have often been invoked in favor of the authenticity of the prohibition: the independent attribution of the saying to Jesus in First Corinthians and in the Synoptics, and the radical opposition of the prohibition to the well-known Jewish permission of divorce, usually associated with the Mosaic legislation reflected in Dt 24:1–4.³

Likewise introduced at times into the discussion of NT teaching on divorce are texts that do not deal with it explicitly, but that are instructions sometimes interpreted as implying the prohibition. These are the regulations set down in the Deutero-Pauline letters that Christian *episkopoi*, *presbyteroi*, and *diakonoi* are to be *mias gynaikos andres*, “husbands of one wife” (1 Tim 3:2, 12; Tit 1:6), and that the widow who was to be enrolled should have been *henos andros gynē*, “the wife of one husband” (1 Tim 5:9).⁴ The latter Deutero-Pauline instruction about the

¹ A good bibliography on the divorce texts can be found in A. Myre, “Dix ans d'exégèse sur le divorce dans le Nouveau Testament,” *Le divorce: L'Eglise catholique ne devrait-elle pas modifier son attitude séculaire à l'égard de l'indissolubilité du mariage?* (Montreal: Fides, 1973) pp. 139–63, esp. 156–63.

² See R. Bultmann, *The History of the Synoptic Tradition* (Oxford: Blackwell, 1968) p. 27.

³ To be noted, however, are the two prohibitions of divorce in Dt 22:13–19, 28–29.

⁴ See A. Oepke, “Gynē,” in G. Kittel, ed., *Theological Dictionary of the New Testament* 1 (Grand Rapids: Eerdmans, 1964) 776–89, esp. 788; H. Baltensweiler, *Die Ehe im Neuen Testament: Exegetische Untersuchungen über Ehe, Ehelosigkeit und Ehescheidung* (Zurich: Zwingli, 1967) pp. 239–41; R. L. Saucy, “The Husband of One Wife,” *Bibliotheca sacra* 131 (1974) 229–40.

widow seems to be merely an extension of what Paul himself writes in 1 Cor 7:39-40, when, insisting that he has "God's Spirit," he recommends: "In my opinion she is happier if she remains as she is" (1 Cor 7:40). And to this recommendation some also relate the illustration that Paul uses in Rom 7:2-3: "A married woman is bound by law to her husband as long as he lives. But if her husband dies, she is discharged from the law concerning her husband."⁸ However, none of these texts bears directly on the question of divorce; and if they do have any pertinence, it is only indirect. Though they contribute to the complexity of the NT data that bear on the question of divorce, they are not of concern to us now.

The problems connected with the prohibition of divorce in the first set of texts mentioned, however, are multiple and notorious. Some of these problems arise from the synoptic relationships of Matthew, Mark, and Luke; some from form-critical and redaction-critical considerations. Consequently, before discussing the Qumran material that bears on the exceptive phrases in the Matthean passages, I shall have to state briefly how I view these various NT texts that treat of divorce. Once the Qumran material has been presented, I shall draw from it the consequences for the Synoptic passages and discuss further theological implications in all of them. My discussion, then, will fall into four parts: (1) preliminary remarks about certain aspects of the NT divorce passages; (2) the Qumran material that bears on the Matthean exceptive phrases; (3) consequences to be drawn for the Marcan and Matthean passages; and (4) theological implications of all this for the current debate about divorce.

PRELIMINARY REMARKS

The preliminary remarks about certain aspects of the NT divorce-passages are intended to set forth my understanding of the relation between the five main texts and some of the details in them as a background for the Palestinian evidence to be considered in Part 2. The remarks will be seven in number.

1 Cor 7:10-11

The earliest attestation of an attitude of Jesus toward divorce is preserved in the Pauline corpus, in the First Letter to the Corinthians (written ca. A.D. 56), where the prohibition is attributed by Paul to "the

⁸ *Ibid.*, pp. 233-34. Cf. J. Murray, "Divorce," *Westminster Theological Journal* 11 (1948-49) 105-22; M.-J. Lagrange, *Saint Paul: Epître aux Romains* (Paris: Gabalda, 1931) p. 161; K. Haacker, "Ehescheidung und Wiederverheiratung im Neuen Testament," *Theologische Quartalschrift* 151 (1971) 28-38, esp. 28.

Lord.”⁶ What he has almost certainly derived from prior Christian tradition, he invests with the authority of the risen *Kyrios*, clearly stating that it does not originate with him (in contrast to 7:12, 25):

^{10a} *Tois de gegamēkosin parangellō*, ^{10b} *ouk egō alla ho Kyrios*, ^{10c} *gynaika apo andros mē chōrīsthēnai*—^{11a} *ean de kai chōrīsthē*, ^{11b} *menetō agamos ē tō andri katallagētō*—^{11c} *kai andra gynaika mē aphienai*.

^{10a} To the married I give charge, ^{10b} not I but the Lord, ^{10c} that the wife should not separate from her husband ^{11a} (but if she does, ^{11b} let her remain single or else be reconciled to her husband)—^{11c} and that the husband should not divorce his wife (RSV).

Here in indirect discourse Paul formulates the prohibition (which may reflect the pronouncement preserved in Mk 10:4 and Mt 19:7).

The RSV has translated the charge *gynaika apo andros mē chōrīsthēnai* (with an aorist passive) by the intransitive verb “separate”: “that the wife should not separate from her husband.” It thus takes the passive of *chōrizein* and treats it as a middle or intransitive, thus making it an equivalent of *aphienai* in v. 11b.⁷ It casts the prohibition of divorce, which is attributed to “the Lord,” into a form suited more to a Hellenistic Christian setting than to a Palestinian Christian setting. It would, moreover, mean that the earliest attested NT prohibition of divorce was already set in an elaborated form reflecting the Hellenistic ambiance of Paul’s missionary activity. Furthermore, v. 13c would seem to support this interpretation: “she should not divorce him” (*mē aphietō ton andra*). Here it is clear that Paul is envisaging the Hellenistic world, in which it was otherwise possible for the woman to divorce her husband. However, it should be noted that vv. 10c and 11a could just as easily be translated thus: “that the wife should not be separated (or divorced) from her husband—but if she is separated (or divorced). . . .” With such an understanding of the verses, the charge would reflect the Palestinian

⁶ For the significance of this formulation, see my discussion in *Pauline Theology: A Brief Sketch* (Englewood Cliffs: Prentice-Hall, 1967) p. 13. Cf. D. M. Stanley, “Pauline Allusions to the Sayings of Jesus,” *CBQ* 23 (1961) 26–39; D. L. Dungan, *The Sayings of Jesus in the Churches of Paul: The Use of the Synoptic Tradition in the Regulation of Early Church Life* (Philadelphia: Fortress, 1971) pp. xxx–xxxii; Baltensweiler, *Die Ehe*, p. 189.

⁷ H. Lietzmann (*An die Korinther I-II* [4th ed.; Tübingen: Mohr, 1949] p. 31) says this precisely: “Das *chōrīsthēnai* muss parallel dem *aphienai* v. 11 die aktive Handlung der Scheidung bedeuten.” Similarly, J. Dupont (*Mariage et divorce dans l’Evangile: Matthieu 19, 3–12 et parallèles* [Bruges: Desclée de Brouwer, 1959] p. 59) translates *chōrīsthēnai* as a middle “se séparer,” but he does not justify this interpretation of a passive as middle. In some mss. (A, D, G, etc.) the present infinitive *chōrīzesthai* is read, which could be taken as middle. But the better reading is the aorist passive.

Jewish situation, in which only the husband was normally permitted to institute divorce.

The *RSV* has also set vv. 11a–b between dashes. This probably reflects the opinion of some commentators, such as H. Baltensweiler,⁸ who regard these clauses as a Pauline insert into the charge of the Lord, which is thus only to be identified with vv. 10c and 11c. Paul's insert would be an explication of the charge about divorce itself in terms of subsequent marriage with another person. Since, as we shall see below, other forms of the prohibition do refer to subsequent marriage as well as to divorce, I prefer to regard v. 11a–b as a reflection of what was in the original saying, although the present formulation may indeed be Pauline.

As H. Conzelmann has put it, "the regulation is absolute."⁹ Neither husband nor wife is to be divorced from the other; if the woman should be divorced, she should remain *agamos*, "unmarried," or be reconciled. As D. L. Dungan has stated, "It is clear that one of the things this word of the Lord means to Paul is that *it forbids additional marriages after divorce.*"¹⁰ But he also interprets Paul's words in the passage to mean that Paul "*permits the divorce if it has taken place.*"¹¹ He finds that "*Paul's application is in flat contradiction to the command of the Lord, which is a strict prohibition of divorce.*"¹² One wonders, however, whether this is really a Pauline "permission" or a mere concession to a factual situation, perhaps reported to him from the Corinthian community. In any case, Paul's attitude in v. 10 is unqualified and envisages no further marriage for the woman after the divorce. It stands in contrast to what he sets forth—he himself, not the Lord¹³—in vv. 12–15 about the believing woman who is "not bound" (*ou dedoulōtai*) if an unbelieving husband separates from her.

Lk 16:18

An equally absolute prohibition of divorce is found in an isolated dominical saying of Jesus in Lk 16:18. A slightly modified form of it stands the best chance of being regarded as the most primitive form of the sayings about divorce in the NT. In its present form it runs as follows:

⁸ *Die Ehe*, pp. 187–91.

⁹ *A Commentary on the First Epistle to the Corinthians* (Philadelphia: Fortress, 1975) p. 120. Cf. E.-B. Allo, *Saint Paul: Première épître aux Corinthiens* (2d ed.; Paris: Gabalda, 1956) p. 165.

¹⁰ *The Sayings of Jesus*, p. 91 (the italics are his in this and the following quotations).

¹¹ *Ibid.*, p. 92.

¹² *Ibid.*, p. 93.

¹³ The different terms used by Paul in his counsels in 1 Cor 7 are important and should be noted: "I wish" (7:7, 32); "I say" (7:8, 35); "my opinion" (7:25, 40); "I order" (7:17); the Lord "charges" (7:10, 25). On these terms see Baltensweiler, *Die Ehe*, p. 188; W. Schrage, *Die konkreten Einzelgebote in der paulinischen Paränese* (Gütersloh: Mohn, 1961) pp. 241–49.

^{18a}*Pas ho apolyōn tēn gynaika autou* ^{18b}*kai gamōn heteran moicheuei*, ^{18c}*kai ho apolelymenēn apo andros gamōn moicheuei*.

^{18a}Everyone who divorces his wife ^{18b}and marries another commits adultery, ^{18c}and he who marries a woman divorced from her husband commits adultery (RSV).

This form of the dominical saying is a declaratory legal statement which is reminiscent of OT casuistic law.¹⁴ It is related to the saying preserved in Mt 5:32 (minus the exceptive phrase) and is derived from the common source "Q."¹⁵ In its present Lucan form the saying is not only a prohibition of divorce but a judgment about a husband's marriage after the divorce, relating both to adultery, proscribed by OT legislation (in the Decalogue, Ex 20:14; Dt 5:18; and elsewhere, Lv 20:10; Dt 22:22; cf. Lk 18:20 and Jn 7:53—8:11 [the latter implies that Dt 22:22 was still regarded as in force]). The Lucan form of the saying differs from the Pauline in that the subsequent marriage mentioned is that of the man, whereas in 1 Cor 7 it is the woman's subsequent marriage.

The phrase in Lk 16:18b, *kai gamōn heteran*, "and marrying another," has been regarded as an addition made by Luke to what is otherwise the original form of the saying.¹⁶ Since, however, that phrase is present in other forms of the prohibition, whether it be the Pauline form or the Synoptic forms (Mk 10:11; Mt 19:9), it is almost certainly part of the original prohibition.¹⁷

The phrase in Lk 16:18c, *apo andros*, is missing in Codex Bezae; this variant is in itself insignificant, but its omission may represent the more original form of the saying.¹⁸

Indeed, the whole third part of the saying (18c) may be only an extension of the first part (18a-b). It was probably found in the "Q" source, since it is also present in Mt 5:32b.¹⁹ But whether it actually

¹⁴ See B. Schaller, "Die Sprüche über Ehescheidung und Wiederheirat in der synoptischen Überlieferung," *Der Ruf Jesu und die Antwort der Gemeinde: Exegetische Untersuchungen Joachim Jeremias zum 70. Geburtstag gewidmet von seinen Schülern* (eds. E. Lohse, C. Burchard, and B. Schaller; Göttingen: Vandenhoeck & Ruprecht, 1970) p. 245. Schaller notes that the penalty threatened in the usual casuistic form is missing here. See further Haacker, "Ehescheidung," p. 30.

¹⁵ For my understanding of the "Q" source, see my article, "The Priority of Mark and the 'Q' Source in Luke," *Jesus and Man's Hope 1* (eds. D. G. Buttrick et al.; Pittsburgh: Pittsburgh Theological Seminary, 1970) 131-70, esp. 147-56.

¹⁶ Baltensweiler, *Die Ehe*, pp. 60-64.

¹⁷ See also F. Neiryneck, "De Jezuswoorden over echtscheiding," *Mislukt huwelijk en echtscheiding: Een multidisciplinaire benadering* (ed. V. Heylen; Louvain: Catholic University of Louvain, 1972) pp. 127-41, esp. 133. The principle of multiple attestation is being used here.

¹⁸ *Ibid.*

¹⁹ *Ibid.*, p. 132.

formed part of the original prohibition may be debated, since it is not hinted at in Paul or Mark.

When all is said and done, the chances are the most primitive form of the logion is preserved here in Lk 16:18a–b, possibly with 18c (but without *apo andros*): “Everyone who divorces his wife and marries another commits adultery (and he who marries a divorced woman commits adultery).”

What should be noted here is that the prohibition is cast completely from the OT or Jewish point of view, commenting on the action of the husband who would divorce his wife and marry again (or who would marry a divorced woman). Underlying it are the notions of the wife as the chattel of the husband, implied in such passages as Jer 6:12, Gn 31:15, Nm 30:10–14, and of the OT allowance of divorce to the husband (Dt 24:1–4). What is new is the branding of the man’s action as adulterous. Though Paul’s form of the prohibition is the earliest preserved, it represents a certain development beyond what seems to be the more primitive form of the prohibition preserved here in Luke.

Mt 5:31–32

The isolated dominical saying about divorce in “Q” has become part of the Sermon on the Mount in the Matthean Gospel, functioning as one of the six antitheses in 5:21–48, where Jesus is depicted reacting to the righteousness of the scribes.²⁰ Though some commentators have at times tried to relate Mt 5:31–32 to Mk 10:11,²¹ it is almost certainly a separate tradition that is reflected here and in Lk 16:18. Both Mt 5:32 and Lk 16:18 have the *pas ho apolyōn* form, whereas Mk 10:11 has *hos an apolysē* (as does Mt 19:9). The text of Mt 5:32 reads:

^{31a}*Errethē de* ^{31b}*hos an apolysē tēn gynaika autou, dotō autē apostasion.* ^{32a}*egō de legō hymīn hoti* ^{32b}*pas ho apolyōn tēn gynaika autou parektos logou porneias poiei autēn moicheuthēnai,* ^{32c}*kai hos ean apolelymenēn gamēsē, moichatai.*

^{31a} It was also said, ^{31b} “Whoever divorces his wife, let him give her a certificate of divorce.” ^{32a} But I say to you that ^{32b} every one who divorces his wife, except on the ground of unchastity, makes her an adulteress; ^{32c} and whoever marries a divorced woman commits adultery (*RSV*).

Whereas v. 31a forms Matthew’s stereotyped introduction to the saying, marked with his characteristic *errethē de*, a shortened form of

²⁰ For the relation of Mt 5:32 to Lk 16:18, see J. Dupont, *Les Béatitudes: Le problème littéraire—Les deux versions du Sermon sur la Montagne et des Béatitudes* (new ed.; Louvain: Nauwelaerts, 1958) pp. 117–18.

²¹ E.g., G. Delling, “Das Logion Mark. X 11 [und seine Abwandlungen] im Neuen Testament,” *Novum Testamentum* 1 (1956–57) 263–74, esp. 265–67.

similar earlier formulas (vv. 21a, 27a) or of those that follow (vv. 33a, 38a, 43a), v. 31b (*hos an apolysē tēn gynaika autou, dotō autē apostasion*, “whoever divorces his wife, let him give her a writ of divorce”) purports to quote Dt 24:1 in part, but it is not a verbatim quotation of the so-called LXX.²² The sense of the quotation, however, is clear and provides the basis of the antithesis. The Matthean form of the prohibition of divorce recorded here differs from Lk 16:18, not only because of the added exceptive phrase *parektos logou porneias*, but in two other ways: (a) it lacks the second phrase, Lk 16:18b, *kai gamōn heteran*; and (b) it relates divorce itself, and not divorce and subsequent marriage, to adultery. Whereas the Lucan form of the saying also expresses a judgment about the husband’s subsequent marriage, the Matthean form regards divorce itself as the cause of adultery (*poiei autēn moicheuthēnai*, lit., “makes her to be adulterated”). This is, I suspect, a Matthean reformulation of the original “Q” saying, which is found in a more primitive form in Lk 16:18a–b. One reason for regarding the Matthean form as a reformulation is the immediate context in the Sermon on the Mount, where in v. 27 Jesus’ antithesis equates even the lustful look of a man at a woman with adultery, an antithesis that lacks a parallel in either Mark or Luke. Hence it is most likely Matthew who relates divorce itself to adultery.²³ Once again, the prohibition is stated from the viewpoint of the man, as in the Lucan form of the saying.

Mk 10:2–12

This passage dealing with divorce is composite. The first part (vv. 2–9) is a pronouncement-story or *Streitgespräch*, which, having quoted Gn 1:27 and 2:24, ends with the apophthegm “What therefore God has joined together, let not man put asunder.” It is addressed to Pharisees who have asked him whether “it is lawful for a man to divorce his wife”

²² In the LXX Dt 24:1 runs thus: *Ean de tis labē gynaika kai synoikēsē autē, kai estai ean mē heurē charin enantion autou, hoti heuren en autē aschēmon pragma, kai grapsei autē bibliōn apostasiou kai dōsei eis tas cheiras autēs kai exapostelei autēn ek tēs oikias autou...*, “If someone takes a wife and lives with her, and it happens that (lit., if) she does not find favor before him, because he (has) found in her (some) disgraceful deed (or thing), and he writes her a writ of divorce and puts it into her hands and sends her out of his house. . .” (A. Rahlfs, *Septuaginta* 1 [8th ed.; Stuttgart: Württembergische Bibelanstalt, 1935] 329). The newly discovered Greek version of Deuteronomy (Papyrus Fuad 266), fr. 36, has unfortunately only a few words of Dt 24:1 and they are identical with the LXX. See F. Dunand, *Papyrus grecs bibliques* (Papyrus F. Inv. 266): *Volumina de la Genèse et du Deutéronome* (Cairo: Imprimerie de l’Institut Français d’Archéologie Orientale, 1966), *textes et planches*, p. 105.

²³ H. Greeven (“Ehe nach dem Neuen Testament,” *New Testament Studies* 15 [1968–69] 365–88, esp. 382–85) argues for Mt 5:32 as the more primitive form of the saying than Luke’s, but his arguments are forced and unconvincing.

(v. 2). But joined to this pronouncement-story is a dominical saying, addressed to disciples later on in a house (vv. 10-12), a saying that echoes the judgmental form of Q. This brings it about that there are here in Mk 10 two sayings of Jesus about divorce. They run as follows:

⁹ *ho oun ho Theos synezeuxen, anthrōpos mē chērizetō.*

⁹ What therefore God has joined together, let not man put asunder.

^{11a} *kai legei autois*. ^{11b} *hos an apolysē tēn gynaika autout* ^{11c} *kai gamēsē allēn*
^{11d} *moichatai ep' autēn*. ^{12a} *kai ean autē apolysasa ton andra autēs gamēsē allon,*
^{12b} *moichatai.*

^{11a} And he said to them, ^{11b} "Whoever divorces his wife ^{11c} and marries another, ^{11d} commits adultery against her; ^{12a} and if she divorces her husband and marries another, ^{12b} she commits adultery."

In the pronouncement recorded in v. 9 the third person negative imperative is used and it formulates absolutely Jesus' prohibition of divorce itself. It involves God Himself in the matter, and has sometimes been said to echo a view of marriage that is otherwise found in Tob 6:18 (LXX^{BA}: "she was destined for you from eternity"). It is a pronouncement that is not based on Dt 24:1, about which the Pharisees had inquired, but rather on Gn 1:27 and 2:24.²⁴

The dominical saying of vv. 11-12 is again a declaratory legal statement similar to and related to the "Q" saying of Lk 16:18 and Mt 5:32. As in the "Q" statement, it expresses a judgment about divorce and subsequent marriage, which are viewed from the man's standpoint and regarded as adulterous.

Three things, however, are to be noted about the saying. (a) The reading of v. 12a given above is that of Sinaiticus and Vaticanus (preferred by Nestle and Aland). But there are two other forms of the verse that are attested.²⁵ (b) V. 11d as given above includes the words *ep' autēn*; it thus specifies that the divorce and subsequent marriage are an act of adultery "against her." This would seem extraordinary from the Jewish point of view. Indeed, this is probably the reason why it is omitted in some mss.²⁶ The phrase *ep' autēn* is almost certainly a Marcan addition made in the light of what is to be said in v. 12. It is an

²⁴ Compare the similar use of two passages of Genesis (1:27 and 7:9) in the *Damascus Document*, to be treated below. Cf. *New Testament Studies* 7 (1960-61) 319-20.

²⁵ This is not the place to engage in a lengthy discussion of these variants; see Baltensweiler, *Die Ehe*, pp. 66-67. It may be noted, however, that the United Bible Societies *Greek New Testament* (New York: American Bible Society, 1966) lists no variants for this verse, nor does B. M. Metzger (*A Textual Commentary on the Greek New Testament* [New York: United Bible Societies, 1971]) discuss it.

²⁶ Mss. Θ, W, some minuscules of the family λ, and the Syriac versions. None of these is very significant.

explicative addition, which makes Jesus' words express the fact that adultery against a woman is something now to be considered.²⁷ (c) V. 12 is a further Marcan extension of the first logion, introduced to suit the contingencies of Gentile Christian communities in areas where Roman and Greek law prevailed and where a woman was permitted to divorce her husband.²⁸ The Evangelist Mark has thus extended the logion to a new situation, whereas it was originally formulated in terms of the usual OT understanding of the marriage bond, in which only the man—as *ba'al*—was able to divorce his wife, although we know that divorce was envisaged as a possibility at least for Jewish women living in the military colony at Elephantine in Egypt in the fifth century B.C. A number of Aramaic marriage contracts from that place mention it explicitly.²⁹ But the evidence for such a practice in Palestine itself is meager indeed, almost nonexistent.³⁰

Hence the composite Marcan form of the divorce pericope contains two forms of the prohibition of divorce attributed to Jesus, both of them unqualified. There is one aspect of the pericope—the intelligibility of the Pharisees' question—which will be discussed below.

Mt 19:3-9

Closely related to Mk 10:2-12 is the similar pericope of Mt 19:3-9.³¹ In fact, Matthew has derived it from his "Marcan" source, but he has

²⁷ Cf. G. Delling, "Das Logion Mark. X 11 [und seine Abwandlungen] im Neuen Testament," *Novum Testamentum* 1 (1956-57) 263-74, esp. 270.

²⁸ See W. Kunkel, "Matrimonium," *Paulys Real-Encyclopädie der classischen Altertumswissenschaft* (ed. G. Wissowa; Stuttgart: Metzler) 14/2 (1930) 2259-86, esp. 2275-81; T. Thalheim, "Ehescheidung," *ibid.* 5/2 (1905) 2011-13; F. Raber, "Divortium," *Der kleine Pauly: Lexikon der Antike* (eds. K. Ziegler and W. Sontheimer; Stuttgart: Druckermüller) 2 (1957) 109-10; J. Dauvillier, "L'Indissolubilité du mariage dans la nouvelle Loi," *Orient-Syrien* 9 (1964) 265-89.

²⁹ See A. E. Cowley, *Aramaic Papyri of the Fifth Century B.C. Edited with Translation and Notes* (Oxford: Clarendon, 1923) p. 45 (AP 15:22-23: "Should Miptāhiah rise up in an assembly tomorrow [or] some other [da]y and say, 'I divorce (lit., I hate) my husband Ešhor, the divorce fee is on her head. . ."). On this text see my commentary "A Re-Study of an Elephantine Aramaic Marriage Contract (AP 15)," *Near Eastern Studies in Honor of William Foxwell Albright* (ed. H. Goedicke; Baltimore: Johns Hopkins Univ., 1971) pp. 137-68. See further E. G. Kraeling, *The Brooklyn Museum Aramaic Papyri: New Documents of the Fifth Century B.C. from the Jewish Colony at Elephantine* (New Haven: Yale Univ., 1953) pp. 142-43 (BMAP 2:9), 206-7 (BMAP 7:25). Compare AP 9:8.

³⁰ An attempt has been made by E. Bammel ("Markus 10 11f. und das jüdische Eherecht," *ZNW* 61 [1970] 95-101) to gather the evidence for a Jewish woman's right to divorce her husband. There is a text in Josephus (*Ant.* 15.7.10 §259) which mentions a case of it—and we shall return to it below. The restoration of Murabba'at fr. 20:6 (P. Benoit, J. T. Milik, R. de Vaux, *Les grottes de Murabba'at* [Discoveries in the Judaean Desert 2; Oxford: Clarendon, 1961] pp. 110-13) by J. T. Milik is highly questionable, as Bammel realizes, and cannot really be used as evidence.

³¹ The twofold occurrence of the prohibition of divorce in the Matthean Gospel is a

modified it to make it better suit his Jewish-Christian concerns. First of all, he has cast the *Streitgespräch* in terms of the Hillel-Shammai dispute, by making the Pharisees ask whether it is lawful to divorce one's wife "for any cause" (*kata pasan aitian*). Secondly, he has built the dominical saying (of Mk 10:11-12, without the phrase *ep' autēn*, which was unsuited to his concerns) into the *Streitgespräch* itself (19:9), introducing it by the vv. 7-8. Like Mark, he too has thus preserved for us two forms of the saying about divorce:

**ho oun ho Theos synezeuxen, anthrōpos mē chōrizetō.*

* What therefore God has joined together, let not man put asunder.

**legō de hymin hoti *hos an apolysē tēn gynaika autou mē epi porneia *kai gamēsē allēn, *dmoichatai.*

*And I say to you: *Whoever divorces his wife except for unchastity, *cand marries another, *dcommits adultery (RSV).

Aside from the exceptive phrase, to which I shall return, the first saying (v. 6) repeats the absolute prohibition of divorce that is found in Mark, and the second takes over only that which would suit Matthew's Jewish-Christian concerns.

The real problem with this interpretation of Mt 19:3-9 is that it presupposes the Two-Source Theory of Synoptic relationships, at least a modified form of it.³² Some commentators, who admit such a solution to the Synoptic problem in general, think at times that the episode preserved here is more primitive than its counterpart in Mk 10 and that the Evangelist was here dependent on a tradition independent of Mark and actually more primitive than the Marcan source (e.g., "M").³³ Still

"doublet," a term reserved for those pericopes within a given Gospel which are derived from two independent sources. Thus, Mt 5:32 is from "Q," and Mt 19:3-9 from the Marcan source. See E. von Dobschütz, "Matthäus als Rabbi und Katechet," *ZNW* 27 (1928) 338-48, esp. 340.

³² The modification consists mainly in the admission of private sources that both Matthew and Luke had, usually designated "M" and "L," either oral or written. In admitting the existence of such sources, one has thus modified the classic form of the Two-Source Theory (Mark and "Q"). See further "The Priority of Mark," pp. 162, 170 n. 93.

³³ E.g., R. H. Charles, *The Teaching of the New Testament on Divorce* (London: Williams and Norgate, 1921) pp. 19-31; B. H. Streeter, *The Four Gospels: A Study of Origins Treating of the Manuscript Tradition, Sources, Authorship, & Dates* (London: Macmillan, 1927) p. 259; J. Jeremias, *Jesus als Weltvollender* (Gütersloh: Bertelsmann, 1930) p. 65; M. R. Lehmann, "Gen 2 24 as the Basis for Divorce in Halakha and New Testament," *Zeitschrift für die alttestamentliche Wissenschaft* 72 (1960) 263-67; A. Isaksson, *Marriage and Ministry in the New Temple: A Study with Special Reference to Mt. 19.13-12 [sic] and 1. Cor. 11.3-16* (Lund: Gleerup, 1965) pp. 70-74; B. Vawter, "The Biblical Theology of Divorce," *Proceedings of the Catholic Theological Society of America* 22 (1967) 223-43, esp. 233-34.

others point to this passage in particular as one of the best reasons for abandoning the Two-Source Theory entirely.³⁴ Part of the reason for such views is the composite character of Mk 10:2-9 and 10:11-12, already mentioned, which is regarded as secondary. Part of it is the double audience or double setting in the Marcan form (an answer to the Pharisees, v. 2, followed by an answer to the disciples, v. 10). Moreover, the question posed in Mt 19, "Is it lawful to divorce one's wife *for any reason?*" is regarded as more primitive, because it seems to reflect a dispute between the schools of Hillel and Shammai and would thus have a more plausible matrix in a well-known Palestinian Jewish setting.³⁵ But the question as posed in Mk 10:2 is said to be incomprehensible in such a setting, because divorce was in fact permitted in Palestinian Judaism. The new material that I should like to consider in Part 2 bears directly on this problem; my further comments on the problem will be presented in Part 3. At the moment I only wish to say that this form of the Matthean prohibition of divorce (minus the exceptive phrase) has to be regarded as derived from Mk 10 and adapted by Matthew for the sake of Christians living in the mixed community for which he was principally writing.³⁶

Matthean Exceptive Phrases

The major problem in the Gospel divorce texts is the Matthean exceptive phrases. On the one hand, the judgmental saying in Mt 5:32 relates *divorce* itself to adultery (and not simply divorce with remarriage, as in Mk 10:11, Mt 19:9, Lk 16:18) and levels its accusation against the man.³⁷ On the other hand, the prohibition of divorce is accompanied by an exceptive phrase in both Matthean passages: *parektos logou porneias*, "except in the matter of *porneia*" (5:32), and *mē epi porneia*, "except for *porneia*" (19:9).³⁸ Though the phrases differ in their formulation, they both have to be understood as expressing an exception.³⁹

³⁴ E.g., Dungan, *The Sayings of Jesus*, pp. 103-31. Cf. his article "Mark—The Abridgement of Matthew and Luke," *Jesus and Man's Hope* 1, 51-97.

³⁵ See Dupont, *Mariage et divorce*, p. 28. For parallels to "for any reason," see the Greek formulas in Josephus, *Ant.* 4.8.23 §253 (*kath' hasdēpotoun aitias*), and Philo, *De spec. leg.* 3.5 §30 (*kath' hēn an tychē prophasin*).

³⁶ See further Neiryneck, "De Jezuswoorden over echtscheiding," p. 136.

³⁷ See G. Dellling, "Das Logion," *Novum Testamentum* 1 (1956-57) 270.

³⁸ Some mss. (B, D, λ, φ) read *parektos logou porneias* in 19:9, but that is obviously the result of harmonization with 5:32.

³⁹ Tortuous attempts to read these phrases as other than "exceptive" have to be recognized for what they really are: subterfuges to avoid the obvious. B. Vawter ("The Divorce Clauses in Mt 5,32 and 19,9," *Catholic Biblical Quarterly* 16 [1954] 268-69, esp. 160-62, 163-64) has supplied a list of such attempts and the problems inherent in them. Cf. Dellling, "Das Logion," pp. 268-69; Dupont, *Mariage et divorce*, pp. 96-106; Baltensweiler, *Die Ehe*, pp. 89-91.

Three aspects of the problem which these exceptive phrases create have to be distinguished. (a) Are they possibly part of the authentic logion? Attempts have been made to maintain that the Matthean exceptive phrases go back to Jesus himself, or at least that they are part of the primitive form of the prohibition.⁴⁰ However, few critical commentators would go along with such a solution today. There are two main reasons for their reluctance: (i) the greater difficulty in explaining how the more absolute forms of the prohibition in Paul, Mark, and Luke would then have arisen (especially difficult in Cor 7:10: to think that Paul would so record the absolute, unqualified form of the prohibition as a saying of the *Kyrios* in a context in which he himself makes an exception);⁴¹ (ii) the tendency otherwise attested in Matthew of adding things to the sayings of Jesus (e.g., two extra petitions in the Our Father [6:10b, 13b; cf. Lk 11:2-4]; additions to the Beatitudes [5:3a, 6a; cf. Lk 6:20b-21]; Peter's secondary confession [16:16b-19; cf. Mk 8:29]; Mt 13:12b [cf. Mk 4:25, Lk 8:18]; Mt 25:29 [cf. Lk 14:26]).⁴² These two considerations make it almost certain that the exceptive phrases stem from the pen of the Evangelist, faced with a problem to resolve in the community for which he was writing.⁴³

b) What is meant by *porneia*? Elsewhere in Matthew the word occurs only in 15:19, where it is listed among other evil machinations of the human mind, "murder, adultery, fornication" (RSV), lined up side-by-side with *moicheia*, "adultery," and obviously distinct from it. Etymologically, it means "prostitution, harlotry, whoredom," being an abstract noun related to *pornē*, "harlot," and to the verb *porneuein*, "to act as a harlot." Generally speaking, it means "fornication," but, as Bauer-Arndt-Gingrich note, it is actually used "of every kind of unlawful sexual intercourse."⁴⁴ Though it is differentiated from *moicheia* in Mt 15:19,

⁴⁰ E.g., A. Schlatter, *Der Evangelist Matthäus: Seine Sprache, sein Ziel, seine Selbstständigkeit* (Stuttgart: Calwer Verlag, 1929) p. 568; H. G. Coiner, "Those 'Divorce and Remarriage' Passages (Matt. 5:32; 19:9; 1 Cor 7:10-16)," *Concordia Theological Monthly* 39 (1968) 367-84; Isaksson, *Marriage and Ministry*, pp. 75-152; J. Schniewind, *Das Evangelium nach Matthäus übersetzt und erklärt* (10th ed.; Göttingen: Vandenhoeck & Ruprecht, 1962) p. 64.

⁴¹ See Dupont, *Mariage et divorce*, p. 88 n. 2.

⁴² See von Dobschütz, "Matthäus als Rabbi und Ketchet," pp. 339-40, 344; Bultmann, *History of the Synoptic Tradition*, p. 148; Dupont, *Mariage et divorce*, p. 89.

⁴³ This is the conclusion of many NT interpreters today—in fact, of so many that it is useless to try to document it; but see, e.g., Delling, "Das Logion," p. 274; H. Greeven, "Zu den Aussagen des Neuen Testaments über die Ehe," *Zeitschrift für evangelische Ethik* 1 (1957) 109-25.

⁴⁴ *A Greek-English Lexicon of the New Testament and Other Early Christian Literature* (Chicago: Univ. of Chicago, 1957) p. 699.—This is not the place to deal with the question raised by B. Malina, "Does *Porneia* Mean Fornication?" *Novum Testamentum* 14 (1972) 10-17, which has oversimplified the matter. Nor am I happy with his approval of K.-G. Kuhn's interpretation of *zenüt* in CD 4:19 ff. (see "The Epistle to the Ephesians in the

Mk 7:21–22, 1 Cor 6:9, Heb 13:4, it is used of a variety of sexual activity: 1 Cor 5:1 (incest), 6:13 (prostitution), 2 Cor 12:21 (parallel to *akatharsia* and *aselgeia*); see further Col 3:5 and Eph 5:3.⁴⁵ In Acts 15:20, 29 (cf. 21:25) *porneia* is used, however, in a specific sense, since it is lined up with several dietary tabus,⁴⁶ which early Gentile Christians, living in close contact with Jewish Christians (i.e., in predominantly Jewish-Christian communities), were being asked to avoid: “what has been sacrificed to idols, blood, and what is strangled.” The letter of James to the local churches of Antioch, Syria, and Cilicia forbids, in fact, four of the things proscribed by the Holiness Code of Lv 17–18, not only for “any man of the house of Israel” but also for “the strangers that sojourn among them” (*ûmin haggēr ’ăser yāgûr bêtôkām*, 17:8). These were the meat offered to idols (Lv 17:8–9), the eating of blood (Lv 17:10–12), the eating of strangled, i.e., not properly butchered, animals (Lv 17:15; cf. Ex 22:31), and intercourse with close kin (Lv 18:6–18).⁴⁷

Now which of these various meanings of *porneia* can be intended in the Matthean exceptive phrases? For many commentators, *porneia* is simply understood as “adultery.”⁴⁸ This interpretation is open to the obvious objection that if Matthew had meant that, he would have written *moicheia*, a word that he otherwise knows and uses. It has also been pointed out on several occasions that Matthew keeps *moicheia* and *porneia* distinct (15:19).⁴⁹ There is the further difficulty that Matthew is

Light of the Qumran Texts,” *Paul and Qumran* [ed. J. Murphy-O’Connor; Chicago: Priory, 1968] 115–31, esp. 121), as will be clear in Part 2 of this paper.

⁴⁵ Rom 1:29 and Gal 5:19 might also be involved, but there are text-critical problems involved in these passages.

⁴⁶ For the variants on these passages in different NT mss., see Baltensweiler, *Die Ehe*, p. 92; Metzger, *A Textual Commentary*, pp. 429–35.

⁴⁷ See E. Haenchen, *The Acts of the Apostles: A Commentary* (Philadelphia: Westminster, 1971) p. 449; German original, 1956, pp. 415–19; H. L. Strack and P. Billerbeck, *Kommentar zum Neuen Testament aus Talmud und Midrasch* 2 (4th ed.; Munich: Beck, 1965) 729; F. Hauck and S. Schulz, “*Pornē*, etc.,” *Theological Dictionary of the New Testament* 6 (Grand Rapids: Eerdmans, 1968) 593; H. Richards, “Christ on Divorce,” *Scripture* 11 (1959) 22–32, Baltensweiler, *Die Ehe*, pp. 92–103.

⁴⁸ So, e.g., Hauck and Schulz, “*Pornē*, etc.,” p. 592; E. Klostermann, *Das Matthäusevangelium* (4th ed.; Tübingen: Mohr, 1971) p. 46 (quoting B. Weiss); M. Dibelius, *From Tradition to Gospel* (New York: Scribner, n.d.) p. 249; M.-J. Lagrange, *Évangile selon saint Matthieu* (4th ed.; Paris: Gabalda, 1927) p. 105 (“Le sens est donc: ‘mis à part le cas d’adultère’”); M.-E. Boismard, *Synopse des quatre évangiles en français* 2: *Commentaire* (Paris: Cerf, 1972) p. 308 (“l’adultère de la femme”).

⁴⁹ See K. Bornhäuser, *Die Bergpredigt* (Gütersloh: Bertelsmann, 1923) p. 82; A. Fridrichsen, “*Excepta fornicationis causa*,” *Svensk exegetisk Årsbok* 9 (1944) 54–58, esp. 55 n. 2. T. L. Thompson (“A Catholic View on Divorce,” *Journal of Ecumenical Studies* 6 [1969] 53–67, esp. 58 n. 22) calls the distinction between *porneia* and *moicheia* “groundless and the result of a very mechanical, almost mathematical idea of language.” But that is a sciolist approach to the problem.

obviously speaking about something that he would in effect be equating with adultery; so it seems that he is speaking about something different from adultery.⁵⁰ By another group of commentators the word is understood in the generic sense of prostitution or harlotry, as it seems to be used in most of the Pauline passages quoted above. This meaning, while not impossible, would be imposing on the word a predominantly Pauline and Hellenistic meaning in a passage which may have more Palestinian and Jewish concerns.⁵¹ A third group of interpreters prefer to use the specific meaning of *porneia* that is used in Acts 15:20, 29,⁵² understanding it to mean illicit marital unions within the degrees of kinship proscribed by Lv 18:6-18. This is preferred because of the Jewish-Christian problem envisaged in Acts 15 and the concerns of the Matthean Gospel itself. Of these three main positions⁵³ I think that the last-mentioned is the one to be preferred, since there is now further evidence from Qumran literature to support it. This will be seen in Part 2.

c) Why would Matthew add the exceptive phrases? We have already implied the answer to this third aspect of the problem: because he was

⁵⁰ See J. L. McKenzie, "The Gospel according to Matthew," *Jerome Biblical Commentary* 2 (Englewood Cliffs: Prentice-Hall, 1968) 72 (§38).

⁵¹ What it boils down to in the long run is whether one is going to use the Pauline meaning of *porneia* in Matthew or the Lucan meaning from Acts.

⁵² E.g., W. K. L. Clarke, "The Excepting Clause in St. Matthew," *Theology* 15 (1927) 161-62; F. Gavin, "A Further Note on *Porneia*," *Theology* 16 (1928) 102-5; F. W. Green, *The Gospel according to Saint Matthew* (2nd ed.; Oxford: Clarendon, 1945) p. 220; Baltensweiler, *Die Ehe*, pp. 87-102; "Die Ehebruchsklausel bei Matthäus: Zu Matth. 5,32; 19,9," *Theologische Zeitschrift* 15 (1959) 340-56; M. Thurian, *Marriage and Celibacy* (London: SCM, 1959) p. 28.—In Roman Catholic circles the interpretation has been mainly associated with the name of J. Bonsirven: *Le divorce dans le Nouveau Testament* (Paris: Desclée, 1948); "'Nisi ob fornicationem': Exégèse primitive," *Mélanges offerts au R. P. Ferdinand Cavallera* (Toulouse: Bibliothèque de l'Institut Catholique, 1948) pp. 47-63; "'Nisi fornicationis causa': Comment résoudre cette 'crux interpretum'?" *Recherches de science religieuse* 35 (1948) 442-64. It had, of course, been proposed by several before him, but he popularized the theory. A lengthy list of those who use it can be found in Dupont, *Marriage et divorce*, pp. 106-7 nn. 2-3. Some who have adopted it more recently are: J. Schmid, *Das Evangelium nach Matthäus* (5th ed.; Regensburg: Pustet, 1965) p. 104; R. Pesch, "Die neutestamentliche Weisung für die Ehe," *Bibel und Leben* 9 (1968) 208-21, esp. 211; R. Schnackenburg, "Die Ehe nach dem Neuen Testament," *Theologie der Ehe* (eds. G. Krems and R. Munn; Regensburg: Pustet, 1969) pp. 9-36, esp. 17-18.

⁵³ I am passing over other meanings that have been proposed at times in some instances. E.g., the interpretation of *porneia* as intercourse on the part of an engaged girl (Dt 22:20-21), proposed by Isaksson, *Marriage and Ministry*, pp. 135-42; or the figurative interpretation of *porneia* as pagan unbelief, or "something unseemly [in the eyes of God]" proposed by A. Mahoney, "A New Look at the Divorce Clauses in Mt 5,32 and 19,9," *Catholic Biblical Quarterly* 30 (1968) 29-38, esp. 32-35; or the interpretation that it refers to "all offences short of adultery," because the dissolubility of marriage for adultery permitted in the OT was implicitly admitted by Jesus, proposed by R. H. Charles, *The Teaching of the New Testament on Divorce* (London: Williams & Norgate, 1921) pp. 21-22.

seeking to resolve a casuistic problem in early Jewish-Christian communities. The *destinataires* of the Matthean Gospel were a mixed community, predominantly Jewish-Christian, and one of its purposes was precisely to explain to them the sense of the Christian message and why it was that the Gentile Christians were taking over the kingdom preached in it.⁵⁴ But another aspect of the exceptive phrases was undoubtedly to handle the situation of Gentiles who were coming into it and already found themselves in the marital condition proscribed for Jews by Lv 18:6-18. Just as the letter of James enjoined certain matters on the Gentile Christians of the local churches of Antioch, Syria, and Cilicia, so Matthew's exceptive phrases solve a problem for Gentile Christians living in the same community with Jewish Christians, who were still observing Mosaic regulations.

Greek Words for Divorce in the NT

The last preliminary remark has to do with the Greek words for "divorce" which are used in the various NT passages dealing with it. The diversity of vocabulary for it is surprising, and attempts to solve some of the foregoing problems have often involved strained explanations of the vocabulary itself. Hence a need to clarify certain matters.

Paul uses the verb *chōrizein* (1 Cor 7:10) of the woman. It is often used of divorce in the strict sense in Greek writers of the classical and Hellenistic periods (e.g., Isaeus 8:36; Euripides, *Fr.* 1063:13; Polybius, *Hist.* 31.26.6), as well as in Greek marriage contracts.⁵⁵ But it is unattested in the Greek of the so-called LXX. Yet it does turn up precisely in the apophthegm (or pronouncement) of Mk 10:9 and Mt 19:6: "let not man put asunder" (*mē chōrizetō*). It is true that in the middle-passive *chōrizein* does occasionally mean "depart," but this can hardly be taken as the basis of translating *mē chōrīsthēnai* as "let her not desert."⁵⁶ I have already discussed the problem of the aorist passive infinitive above, but what is stressed here is that the verb should properly be translated "be divorced."

Of the man, Paul uses the expression *gynaika mē aphienai* (7:11),

⁵⁴ For further discussion of the destination of the Matthean Gospel to a mixed but predominantly Jewish-Christian community, see my brief note "Antisemitism and the Cry of 'All the People' (Mt 27:25)," *THEOLOGICAL STUDIES* 26 (1965) 667-71, esp. 670-71.

⁵⁵ See J. H. Moulton and G. Milligan, *The Vocabulary of the Greek Testament Illustrated from the Papyri and Other Non-Literary Sources* (London: Hodder and Stoughton, 1930) p. 696. See further such papyrus texts as *PSI* §166.11-12; *P. Rylands* 2.154:25 (A.D. 66; Loeb Classical Library, *Select Papyri*, 1.15); *GGU* §1101:5; §1102:8; §1103:6 (13 B.C.; Loeb Classical Library 1.22-23).

⁵⁶ See the tortuous attempts of R. H. Charles to translate this verb in this way (*The Teaching*, pp. 43-61).

“should not divorce his wife” (RSV). Again, this verb *aphienai* is used for “divorce” in Greek writers of the classical and Hellenistic periods (e.g., Herodotus, *Hist.* 5.39; Euripides, *Andromache* 973; Plutarch, *Pomp.* 44), but it apparently has not turned up in the papyri and is unattested in the LXX.⁵⁷

In the dominical saying preserved in the Synoptics the verb is always *apolyein* (Mk 10:11-12, Lk 16:18, Mt 5:32, 19:9). It is, moreover, the same verb that Matthew uses in the Infancy Narrative to express Joseph's first decision about Mary (1:19, “to divorce her” because of suspected unchastity during the engagement—cf. Dt 22:20-21). With the meaning of “divorce,” *apolyein* is found in Hellenistic writers such as Dionysius of Halicarnassus (*Rom. Ant.* 2.25.7) and Diodorus Siculus (*Libr. hist.* 12.18.1-2). Bauer-Arndt-Gingrich say of it: “This [use] is in accord not w. Jewish . . . , but w. Greco-Roman custom,”⁵⁸ even though they cite an instance of the sense used by Josephus (*Ant.* 15.7.10 §259).⁵⁹ Indeed, an attempt has been made to interpret the first part of the Lucan form of the dominical saying as if *apolyein* did not really mean “divorce” at all, because it lacks the pronouncement-story details of Mark and Matthew. In this view, it would mean rather “leave” and be understood in the light of Jesus' other sayings about discipleship which entail the “hating” of wife and children (14:26) or the “leaving” of house or wife (18:29). Thus Lk 16:18 would mean nothing more than “He who would [for the sake of being Jesus' disciple] leave his wife [without divorcing her] and marries another commits adultery.” It is then maintained that this sense of the logion was lost in time and that it was subsequently interpreted as a saying against divorce itself.⁶⁰ Aside from the far-fetched nature of this explanation of Lk 16:18a, the word *apolyein* has now turned up in the clear sense of “divorce” in a Greek document of remarriage from Palestine. It occurs in a text from Murabba'at Cave II from the Bar Cocheba period and should put to rest any hesitation about whether the Greek verb *apolyein* could have meant “divorce” in the Greek of Palestine in the period in question. The document attests the remarriage of the same two persons, who had been divorced, and it is dated to A.D. 124. The crucial lines read (Mur 115:3-4): *Ep < ei > pro tou synebē tō autō Elaiō Simōnos apallagēnai kai apolyein Salōmēn Iōanou*

⁵⁷ Possibly it occurs in Josephus, *Ant.* 15.7.10 §259, but the reading is not textually sound.

⁵⁸ A *Greek-English Lexicon*, p. 96. Cf. D. Daube, “The New Testament Terms for Divorce,” *Theology* 47 (1944) 66.

⁵⁹ Cf. also Esdras A (LXX) 9:36.

⁶⁰ So B. K. Diderichsen, *Den markianske skilsmisseperikope: Dens genesis og historiske placering* (Copenhagen: Gyldendal, 1962) pp. 20-47, 347. See Isaksson, *Marriage and Ministry*, pp. 94-96; Baltensweiler, *Die Ehe*, p. 64 n. 63; Neirynek, “De Jezuswoorden over Echtscheiding,” p. 130.

Galgoula, "since it happened earlier to the same Elaios (son) of Simon to become estranged and to divorce Salome (daughter) of John Galgoula. . . ." ⁶¹ The two verbs, *appallagēnai kai apolyein*, are probably an attempt to render into Greek the two Aramaic verbs customarily used in Jewish writs of divorce; these are attested in another Murabba'at document (Mur 19:2-4, dated A.D. 111): *šābeq wamētārek min rē'ūtī yômā' dēnāh 'ānāh Yēhōsep bar Naqsan . . . lēki 'intī Miryam bērat Yēhōnātān*, "I, Joseph son of Naqsan, repudiate and divorce you, my wife, Miriam, daughter of Jonathan." ⁶² The significance of this use of *apolyein*, then, should not be missed, since Moulton and Milligan were unable to give any instances of its use in the sense of "divorce" in the Greek papyri on which they based their famous study of NT Greek vocabulary. ⁶³ Finally, it should be noted that whereas Mk 10:4, Mt 5:32, and Mt 19:7 quote Dt 24:1, as if the Greek translation of the latter had the verb *apolyein*, it is not found in our present-day Greek texts of Deuteronomy, which rather have *exapostelei*, "he shall send (her) away," translating exactly the Hebrew *wēšillēhāh*. ⁶⁴

Now, against the background of these preliminary remarks, we may turn to the material from the Qumran scrolls and related texts which shed some first-century Palestinian light on the NT divorce texts and on those of Matthew in particular.

THE QUMRAN MATERIAL

The usual impression that one gets from commentaries and discussions of the NT divorce texts is that Jesus was making a radical break with the Palestinian tradition before him, and this is used in a variety of ways to bear on various details mentioned in the preliminary remarks. I shall cite only one modern author who has formulated such an impression:

. . . Jesus' absolute prohibition of divorce is something quite new in relation to the view of marriage which prevailed in contemporary Judaism. Neither in the O.T.,

⁶¹ See Benoit *et al.*, *Les grottes de Murabba'āt*, p. 248. Isaksson (*Marriage and Ministry*, p. 95) wrongly refers to this document as a "divorce certificate found at Qumran." It has nothing to do with Qumran. See further E. Lövestamm, "Apolyein en gammalpalestinensisk skilsmässoterm," *Svensk exegetisk Årsbok 27* (1962) 132-35.

⁶² See Benoit *et al.*, *Les grottes de Murabba'āt*, p. 105. This document is technically known as a *Doppelurkunde*, "double document," because the same text of the contract was written twice, and the upper form of it (*scriptura interior*) was folded over and sealed, while the lower form (*scriptura exterior*) was left visible for ready consultation. In case of a dispute over the wording, the seals of the upper part could always be broken and the texts compared to make sure that the *scriptura exterior* had not been tampered with. In this instance the *scriptura interior* contains the identical formula (lines 13-15).

⁶³ *The Vocabulary of the Greek Testament*, pp. 66-67. The word does turn up in this sense in later Greek literature.

⁶⁴ See n. 22 above.

the rabbinic literature nor the Qumran documents do we find any condemnation of divorce as such. Thus Jesus was not influenced in his view of divorce by any Jewish group.⁶⁵

So writes a modern author. His impression may seem to be confirmed by an ancient writer too; for in presenting a summary of Mosaic legislation, Josephus interprets Dt 24:1-4 (*Ant.* 4.8.23 §253) and openly acknowledges that a man “who desires to be divorced (*diazeuchthēnai*) from the wife who is living with him for whatsoever cause (*kath’ hasdēpotoun aitias*)—and with mortals many such may arise—must certify in writing that he will have no further intercourse with her.” Again, in telling the story of the divorce initiated by Salome, the sister of Herod the Great, in separating from Costobarus, whom Herod had appointed governor of Idumea, he stressed that she sent him a writ dissolving their marriage (*apolyomenē ton gamon*), “which was not in accordance with Jewish law (*ou kata tous Ioudaiōn nomous*), for it is (only) the man who is permitted by us to do this” (*Ant.* 15.7.10 §259).⁶⁶ Here Josephus clearly admits the possibility of divorce in accordance “with the laws of the Jews,” although his main concern was the question of a Jewish woman’s right to divorce her husband.⁶⁷

Over against this rather widespread impression one has to consider two Qumran texts which bear on the topic. One was only recently made known, and the interpretation of it is not difficult; the other has been known for a long time and is difficult to interpret but the light that is now shed on it by the more recently published text tips the scales toward one particular interpretation often proposed in the past.

The first text is found in the Temple Scroll from Qumran Cave XI, a lengthy Hebrew document—longer than the scroll of the complete Book of Isaiah from Qumran Cave I (1QIsa^a)—which was discovered by the Ta’amireh Bedouin in 1956. It is believed to have been in the possession of Kando, the quondam Syrian cobbler of Bethlehem, who had been the go-between for the sale of the original seven scrolls of Qumran Cave I, from 1956 until the time of the Six-Day War (1967), when Israel occupied the west bank of the Jordan and gained control of the Old City of

⁶⁵ Isaksson, *Marriage and Ministry*, p. 145. See further Vawter, “The Biblical Theology of Divorce,” p. 232; A. Finkel, *The Pharisees and the Teacher of Nazareth* (Leiden: Brill, 1964) pp. 164-65.

⁶⁶ The text continues, “. . . and not even a divorced woman may marry again on her own initiative unless her former husband consents.” See further R. Marcus, “Notes on Torrey’s Translation of the Gospels,” *Harvard Theological Review* 27 (1934) 220-21.

⁶⁷ It is, of course, quite unclear what precedent this divorce of Salome constitutes in Palestinian Judaism of the time; Josephus clearly regards it as an illegal exception. Part of the problem is that Idumeans are involved, people who were often regarded as “half-Jews.”

Jerusalem. In some mysterious, as yet unrevealed, way the Temple Scroll came into the possession of the Department of Antiquities in Israel and was entrusted to Y. Yadin for publication. So far the full text of the scroll has not been published, but Yadin has released a preliminary report on it⁶⁶ and has published a few lines of it which bear on texts in the Qumran corpus that are well known and controverted.⁶⁹ He has also revealed that the Temple Scroll deals in general with four topics: (1) halakic regulations about ritual cleanness, derived from the Pentateuch, but presented with many additions, deletions, and variations; (2) a list of sacrifices and offerings to be made according to different feasts; (3) details for the building of the Jerusalem temple—the longest part, occupying more than half of the 28-foot scroll, from which the name of it has been accordingly derived; and (4) statutes for the king and the army.⁷⁰ Yadin also tells us that God is depicted in the scroll speaking in the first person singular and issuing decrees, and he concludes that the author of the text apparently wanted his readers to consider it virtually as Torah. The fourth section of the scroll, setting forth the statutes, begins with a direct quotation of Dt 17:14–17, the passage which instructs Israel to set up as king over it one “whom the Lord your God will choose, one from among your brethren” and which ends with the prohibition “He shall not multiply wives for himself lest his heart turn away; nor shall he greatly multiply for himself silver and gold” (17:17, RSV).

Now among the statutes for the king is the prohibition both of polygamy and of divorce. The text (11QTemple 57:17–19) reads as follows:

¹⁷wlw' yqh 'lyh 'st 'hrt ky ¹⁸hy'h lbdh thyh 'mw kwl ymy hyyh w'm mth wns'
¹⁹lw 'hrt.

And he shall not take in addition to her another wife, for she alone shall be with

⁶⁶ “The Temple Scroll,” *Biblical Archaeologist* 30 (1967) 135–39; reprinted in *New Directions in Biblical Archaeology* (eds. D. N. Freedman and J. C. Greenfield: Garden City: Doubleday, 1969) pp. 139–48, esp. 141. Cf. “Un nouveau manuscrit de la Mer Morte: Le rouleau du Temple,” *Comptes rendus de l'Académie des inscriptions et belles-lettres* 1968, pp. 607–16.

⁶⁹ The main article in which we are interested is “L'Attitude essénienne envers la polygamie et le divorce,” *Revue biblique* 79 (1972) 98–99. Two other short articles also supply texts that bear on other matters in the Temple Scroll: “Peshet Nahum (4Q pNahum) Reconsidered,” *Israel Exploration Journal* 21 (1971) 1–12 (= 11QTemple 64:6–13); “The Gate of the Essenes and the Temple Scroll,” *Qadmoniot* 5 (1972) 129–30 [in Hebrew]; *Jerusalem Revealed: Archaeology in the Holy City 1968–1974* (Jerusalem: Israel Exploration Society, 1975) pp. 90–91.

⁷⁰ “The Temple Scroll,” *New Directions*, p. 142.

him all the days of her life; and if she dies, he shall take for himself another (wife).⁷¹

The first regulation clearly precludes polygamy (probably echoing Dt 17:17), but the reason that is further added makes it clear that the king is not to divorce his wife: "for she alone (*lēbaddāh*) shall be with him *all* the days of her life." Thus the Temple Scroll goes beyond Dt 17:17, which forbids polygamy, and proscribes divorce as well. It may be objected that this is a regulation for the "king" (*melek* of Dt 17:14) and that it does not envisage the commoner. But the principle behind such legislation is—to paraphrase an ancient dictum—*quod non licet Iovi, non licet bovi*; and it has been invoked apropos of other texts by other writers.⁷² Moreover, as we shall see below, what was legislated for the king in Dt 17:17 is explicitly applied by extension to a nonregal authority-figure in the Qumran community. Again, if Yadin's opinion cited above about the intention of the author of the Temple Scroll, that he wanted it to be regarded virtually as Torah, is valid, then the regulations in it were undoubtedly to be normative for all for whom it was a virtual Torah.

Here, then, we find a clear prohibition of divorce in a first-century Palestinian Jewish text. True, it may reflect the ideas of the sectarian Jews who formed the Qumran community, normally regarded as Essenes.⁷³ It may also be a view that was in open opposition to what is usually regarded as the Pharisaic understanding of the matter. To this I shall return later.

Another text which bears on the same topic is the much-debated passage in the *Damascus Document* (CD 4:12b—5:14a). It has been known for a long time, having first come to light among the fragments that S. Schechter recovered from the Genizah of the Ezra Synagogue of Old Cairo in 1896 and that he published in 1910.⁷⁴ It has at times been

⁷¹ A fuller, detailed discussion of the Hebrew text of these lines and of the passage to be cited below from the *Damascus Document* has been prepared by me in an article ("Divorce among First-Century Palestinian Jews"), to be published in the forthcoming H. L. Ginsberg volume (Eretz-Israel series). Justification of many points in the discussion presented here will be found in that article.

⁷² See, e.g., G. Vermes, *The Dead Sea Scrolls in English* (Baltimore: Penguin, 1970) p. 37. See further D. Daube, *The New Testament and Rabbinic Judaism* (London: University of London, 1956) p. 86. Daube calls attention to the fact that CD 7:16–17 quotes Amos 5:26 and interprets the "king" of the Amos passage as "the congregation" (*qhl*).

⁷³ Josephus makes no mention of this tenet of the Essenes.

⁷⁴ *Documents of Jewish Sectaries* 1 (Cambridge: University Press, 1910) xxxv–xxxvii (reprinted in the Library of Biblical Studies with a prolegomenon by J. A. Fitzmyer [2 vols. in one; New York: Ktav, 1970]) pp. 21, (67)-(69), (114)-(115). Schechter's text has to be used with caution. The best edition of the *Damascus Document* today is that of C. Rabin, *The Zadokite Documents 1: The Admonition; 2: The Laws* (Oxford: Clarendon, 1954) 16–19. Cf. S. Zeitlin, *The Zadokite Fragments: Facsimile of the Manuscripts in the Cairo Genizah*

used in the discussion of the NT divorce texts⁷⁵ and has been considered of little help. But now, because of the above-cited passage of the *Temple Scroll*, it needs to be discussed anew.

Fragments of the *Damascus Document*, as it is commonly called today because of the regulations that it contains for community camps in "Damascus," have been found in various Qumran caves; some of these have been published, but the vast majority of them (from Qumran Cave IV) still await publication. Some of these fragments make it clear that earlier forms of the *Damascus Document* existed and that it has a considerable literary and compilatory history. The form to which we are accustomed, in mss. of the tenth and twelfth centuries A.D., is obviously a composite document. Fragments of cols. 4 and 5 are preserved in the Qumran Cave IV material, but unfortunately none of them contains the lines in which the controverted text from the Cairo Genizah is found. This is merely the result of the poor state of preservation of the Cave IV fragments, and there is no reason to think that cols. 4 and 5 read any differently in the Qumran texts than they do in the copy from the Cairo Genizah.⁷⁶

The text of the *Damascus Document* in which we are interested forms part of a section (CD 2:14—6:1) that has been labeled by J. Murphy-O'Connor as "an Essene Missionary Document."⁷⁷ This section seems to have existed independently at one time, before it became part of the conflated text that we know today. It is an admonition or exhortation addressed to Palestinian Jews who were not members of the Essene community.⁷⁸ It seeks to explain God's attitude toward mankind as revealed in history, to extol the role of the privileged remnant to which the writer belonged (the community of the New Covenant [cf. Jer 31:31; CD 6:19]), and to hold out both a promise and a threat to Jews to consider joining the community. The warning is part of the immediately

Collection in the Possession of the University Library, Cambridge, England (Philadelphia: Dropsie College, 1952) pls. iv-v.

⁷⁵ Most of the older discussions have been surveyed and commented on by H. Braun, *Qumran und das Neue Testament* (Tübingen: Mohr, 1966) 1, 40-42; 2, 103-4.

⁷⁶ From Qumran Cave IV have come seven, possibly eight, fragmentary copies of the text. Further fragments were found in Caves V and VI; the latter have been published: 5QD (or 5Q12), corresponding to CD 9:7-10; 6Qd (or 6Q15), corresponding to CD 4:19-21; 5:13-14; 5:18-6:2; 6:20-7:1. In these Cave VI fragments one does find a bit that corresponds to the text of CD 4:19-21, in which we are interested; what is there is identical with that of the medieval copy. See M. Baillet *et al.*, *Les 'Petites Grottes' de Qumrân* (Oxford: Clarendon, 1962) pp. 181 and 128-31. Cf. *Revue biblique* 63 (1956) 513-23.

⁷⁷ "An Essene Missionary Document? CD II, 14—VI, 1," *Revue biblique* 77 (1970) 201-29.

⁷⁸ See further J. Murphy-O'Connor, "The Essenes and Their History," *Revue biblique* 81 (1974) 215-44.

preceding context of the passage in which we are interested. In this passage the author looks at the current orthodoxy in Palestinian Judaism and levels against it a harsh indictment. It is ensnared in various traps of Belial. The part of the "missionary document" in which we are interested (CD 4:12b—5:14a) runs as follows:

And in all those years ¹⁸Belial will be unleashed against Israel; as God said through the prophet Isaiah, son of ¹⁴Amoz, "*Terror and pit and snare are upon you, O inhabitant of the Land.*" The interpretation of it: (These are) ¹⁵the three nets of Belial about which Levi, son of Jacob, spoke, ¹⁶in which he (Belial) has ensnared Israel. He set them <be>fore them as three kinds of ¹⁷"righteousness": the first is unchastity; the second, wealth; the third, ¹⁸defilement of the sanctuary. Whoever rises out of one gets caught in another; whoever is delivered from one gets caught ¹⁹in another.

Is 24:17

The builders of the wall, who have gone after Vanity—(now "Vanity" is a preacher, ²⁰of whom He said, "*They only preach*"—have been caught in unchastity in two ways: by taking ²¹two wives in their lifetime, whereas the principle of creation (is) "*Male and female he created them;* ^{5:1}and those who entered (Noah's) ark, "*two (by) two went into the ark.*" And concerning the prince (it is) written: ²"*He shall not multiply wives for himself.*"

Ez 13:10;
Hos 5:11
Mi 2:6Gn 1:27
Gn 7:9
Dt 17:17

Now David did not read the sealed book of the Law, which was ³in the ark (of the covenant); for it was not opened in Israel since the day when Eleazar, ⁴Yehoshua, Joshua, and the elders died, when they (i.e., the Israelites) began to serve Ashtoreth. It remained hidden <and> was <not> ⁵revealed, until Zadok arose. And the deeds of David mounted up (like a holocaust to God), with the exception of the blood of Uriah; ⁶and God left them to him (for merit).

Moreover, they defile the sanctuary, since they do not keep ⁷separate according to the Law, but lie with her who sees *the blood of her flux.*

Lv 15:19
Lv 18:15

And they take (as wives), ⁸each one (of them), the daughter of his brother and the daughter of his sister, whereas Moses said, "*You shall not ⁹approach (sexually) your mother's sister; she is your mother's kin.*" The regulation for incest ¹⁰is written for males, but it applies equally to women; so if a brother's daughter uncovers the nakedness of ¹¹her father's brother, whereas she is his kin . . . ⁷⁹

⁷⁹ The translation I give here differs slightly from that which I used in an earlier article, in which this passage was quoted in part: "The Use of Explicit Old Testament Quotations in Qumran Literature and in the New Testament," *Essays on the Semitic Background of the New Testament* (London: Chapman, 1971; paperback, Missoula: Scholars Press, 1974)

Of the three nets of Belial in which Israel is said to be ensnared, only two are explained: “unchastity” (*hazzēnūt*) and “defilement of the sanctuary” (*ṭammē’ hammiqdāš*); the net of “wealth” (*hahôn*), is completely passed over, although it seems to be an allusion to Dt 17:17b. Moreover, two instances of *zēnūt* are given: (a) “by taking two wives in their lifetime” (4:20–21—the controverted clause, to which I shall return); and (b) “and they take (as wives), each one (of them), the daughter of his brother, and the daughter of his sister” (5:7–8). These two instances explain the word *bšty*, “in two ways,” of 4:20. C. Rabin was apparently the first commentator to notice the relevance of this word and the relation that it has to the rest of the text.⁸⁰ In more recent times he has been followed by others in what is almost certainly the correct understanding of the text.⁸¹

The explanations of the two nets are accompanied by OT passages which cite the prohibitions of the conduct characteristic of the current orthodoxy in Israel which has disregarded them. The “defilement of the sanctuary” is explained by the failure to avoid intercourse with the woman considered unclean in Lv 15:19. The two forms of “unchastity” are likewise illustrated by OT passages: (a) “the taking of two wives in their lifetime” is seen to be contravening Gn 1:27, 7:9, and Dt 17:17—but note that this is now extended from the “king” of Dt 17:14 to the “prince” (*nāšš*’, i.e., *nēšī kol hā’ēdāh*, “the prince of the whole congregation” [CD 7:20]⁸²); (b) the taking as wives “the daughter of his brother, and the daughter of his sister” is seen to be a contravention of Lv 18:13.

Now two things above all are to be noted in this text. *First*, the controverted meaning of the first form of *zēnūt*: “taking two wives in their lifetime” (*laqaḥat šētē nāšīm bēḥayyēhem*). The text is controverted because the pronominal suffix *-hem* on the word for “lifetime” is masculine, and ever since S. Schechter first published the text of the *Damascus Document* the meaning of the clause has been debated. Three main interpretations of it have been proposed:⁸³ (a) It proscribes both

p. 37. I now take *bznwt* more closely with the three preceding words; for further discussion see the forthcoming article mentioned in n. 71 above.

⁸⁰ *The Zadokite Documents* 17, n. 2 on line 20.

⁸¹ E.g., E. Cothenet, “Le Document de Damas,” *Les textes de Qumran traduits et annotés* 2 (Paris: Letouzey et Ané, 1961) 162; L. Moraldi, *I manoscritti di Qumrān* (Turin: Unione tipografica, 1971) p. 236; Murphy-O’Connor, “An Essene Missionary Document?” p. 220.

⁸² This identification of the “prince” is taken from C. Rabin, *The Zadokite Documents* 18, n. 3 on line 1.

⁸³ G. Vermes (“Sectarian Matrimonial Halakhah in the Damascus Rule,” *Journal of Jewish Studies* 25 [1974] 197–202; reprinted in *Post-Biblical Jewish Studies* [Leiden: Brill, 1975] pp. 50–56) says that there have been four, but he wrongly ascribes to R. H. Charles an interpretation that the latter did not hold.

polygamy and marriage after divorce. (b) It proscribes polygamy alone. (c) It proscribes any second marriage. The first is the majority opinion;⁸⁴ the second has been ably argued by G. Vermes in a recent article;⁸⁵ and the third has been defended by J. Murphy-O'Connor.⁸⁶ It was to offset the third interpretation that Y. Yadin published the few lines of the Temple Scroll that I have cited above. The last line of it makes it perfectly clear that "if she dies, he shall take for himself another (wife)." Consequently, a second marriage after the death of the first wife was not forbidden; hence a prohibition of this should not be read into CD 4:21.⁸⁷ But the writers who defend the second interpretation usually point out that the suffix on "lifetime" should be feminine if divorce were being proscribed (i.e., "in their [feminine] lifetime"); the same argument, however, has been used against the interpretation that it refers merely to polygamy. But now that 11QTemple 57:17-19 speaks out clearly not only against polygamy but also against divorce, the most natural interpretation of CD 4:20-21 is that the masculine pronominal suffix is used to refer to both the man and the woman who are joined in marriage. This is the normal way that one would express such a reference in Hebrew to the two sexes.⁸⁸ Hence the first form of *zēnūt* should be understood here as an ensnarement in either polygamy or divorce—"by taking two wives in their lifetime," i.e., while both the man and the women are alive, or by simultaneous or successive polygamy. The text from the Temple Scroll is thus seen to support the first (or majority) interpretation of CD 4:19-21.

Second, the controversy that has surrounded the interpretation of the first form of *zēnūt* has normally obscured the recognition that in this text

⁸⁴ Besides Schechter, it has been so interpreted by, among many others, D. Daube, P. Winter (for a survey of opinions, see his article "Šadoqite Fragments IV 20, 21 and the Exegesis of Genesis 1 27 in late Judaism," *Zeitschrift für die alttestamentliche Wissenschaft* 68 [1956] 71-84), A. Dupont-Sommer, E. Cothenet, L. Moraldi, G. Vermes (in "The Qumran Interpretation of Scripture in Its Historical Setting," *Annual of the Leeds University Oriental Society* 6 [1969] 85-97, esp. 94), J. Dupont (?).

⁸⁵ "Sectarian Matrimonial Halakhah," pp. 197-202. Others who so interpret the text are H. Braun, J. Carmignac, C. Rabin, F. Neiryneck.

⁸⁶ "An Essene Missionary Document?" p. 220. Before him it was so interpreted by J. Hempel, *Zeitschrift für die alttestamentliche Wissenschaft* 68 (1956) 84; and possibly by M. Burrows, *More Light on the Dead Sea Scrolls* (New York: Viking, 1958) pp. 98-99. Murphy-O'Connor remains skeptical about Yadin's interpretation of CD 4:20-21 in the light of the clear evidence from 11QTemple 57:17-19; see his "Remarques sur l'exposé du Professeur Y. Yadin," *Revue biblique* 79 (1972) 99-100. But his remarks are unconvincing and represent a reluctance to give up a position taken before the new evidence came along.

⁸⁷ However, it might be permitted to relate this passage from 11QTemple to Rom 7:4, where Paul speaks about the married woman who is free to marry again after the death of her husband.

⁸⁸ Vermes ("Sectarian Matrimonial Halakhah," p. 202) has also recognized this interpretation of the suffix.

we have a clear instance of marriage with degrees of kinship proscribed by Lv 18:13 being labeled as *zēnūt*. In the OT *zēnūt* is used both of harlotry (e.g., Jer 3:2, 9; Ez 23:27) and of idolatrous infidelity (Nm 14:33). In the LXX it is translated by *porneia* (e.g., Jer 3:2, 9). Whatever one might want to say about the nuances of the word *zēnūt* in the OT, it is clear that among the Jews who produced the *Damascus Document* the word had taken on further specific nuances, so that polygamy, divorce, and marriage within forbidden degrees of kinship could be referred to as *zēnūt*. Thus, in CD 4:20 and 5:8–11 we have “missing-link” evidence for a specific understanding of *zēnūt* as a term for marriage within forbidden degrees of kinship or for incestuous marriage; this is a specific understanding that is found among Palestinian Jews of the first century B.C. and A.D.

CONSEQUENCES FOR THE MARCAN AND MATTHEAN PASSAGES

Now if the interpretation of these two Qumran passages just discussed is correct, two further important conclusions may be drawn from them.

First, there is clear first-century Palestinian support for an interpretation of *porneia* in Mt 5:32 and 19:9 in the specific sense of *zēnūt* as an illicit marital union between persons of close kinship. Matthew, therefore, would be making an exception for such marital situations for Gentile Christians who were living in a mixed community with Jewish Christians still observing Mosaic regulations. As we have already noted, this interpretation of *porneia* is not new, but the evidence that was often used in the past to support it came from rabbinic literature of a considerably later period.⁸⁹ The fact that such a meaning of *zēnūt* is also found in that literature merely strengthens the data presented here, because it would show that the understanding was not confined to the Essene type of Judaism.

Secondly, the prohibition of divorce by the Qumran community would show that there were at least some Jews in first-century Palestine who did proscribe it. Several writers have pointed out that at least some Qaraites of later centuries prohibited divorce; and the relation of the medieval Qaraites to the Essenes of Qumran is a matter of no little interest and research.⁹⁰ Though we do not know how such an attitude

⁸⁹ The most extensive treatment of this material is given by Bonsirven (see n. 52 above), but his treatment is scarcely a model of clarity; see Dupont, *Mariage et divorce*, p. 108 n. 1.

⁹⁰ This matter is not entirely clear, but it is not beyond the realm of possibility that the Qaraite Jews who differed strongly with the rabbinic interpretation of the Torah were influenced by Essene views. It has even been suggested that they might have discovered some of the scrolls themselves and used them as the basis for their own interpretations. The prohibition of divorce is ascribed to them by H. Cazelles, “Mariage,” *Dictionnaire de la Bible: Supplément* 5 (Paris: Letouzey et Ané) 905–35, esp. 927; M.-J. Lagrange, “La secte

toward divorce would fit in with what Josephus has called "the laws of Jews" (*Ant.* 15.7.10 §259), which permitted it, it at least seems to give the lie to what one reads in Strack-Billerbeck's *Kommentar*: "dass es in der mischnischen Periode keine Ehe im jüdischen Volk gegeben hat, die nicht kurzerhand vom Manne in völlig legaler Weise durch Aushändigung eines Scheidesbriefes hätte gelöst werden können."⁹¹

But if some Palestinian Jews did prohibit divorce, then the whole question of the *Sitz im Leben* for the debate of Jesus with the Pharisees must be reconsidered; for the Qumran legislation furnishes precisely the Palestinian background needed to explain how the question attributed to the Pharisees in Mk 10:2 is comprehensible. B. Vawter has said that "neither the story as Mark tells it (a question over the licitness of divorce in principle) nor the *logion* as he has formulated it [i.e., Mark 10:11-12] (envisaging the possibility of a woman's divorcing her husband) fits into the Palestinian scene presupposed in the life of Jesus and the conflict-stories of the Gospels."⁹² Similarly, D. L. Dungan has stated:

In view of the overwhelming evidence that *nothing whatever in the Law suggests that divorce is illegal* [his italics], any commentator who proposes to defend the primitive historical character of Mark's version of the Pharisees' question, that it is more original than Matthew's, has no alternative, it seems to me, but to search for ulterior and sinister motives on the part of the Pharisees for putting such an obviously phony question to Jesus. . . . The fact is, Mark's version of the question is inconceivable in a Palestinian Pharisaic milieu. This is, of course, simply another way of saying that this is not where it arose. On the other hand, if we simply transpose the whole story in Mark into the setting of the early Hellenistic Church, everything immediately fits perfectly.⁹³

But now, in the light of the statute for the king in the Temple Scroll, which directly forbids polygamy (as does Dt 17:17) and goes beyond that to give a reason which at least implies the prohibition of divorce, the question put by some Pharisees to Jesus in Mk 10:2, "Is it lawful for a man to divorce his wife?" is not as "inconceivable" in a Palestinian milieu as might be supposed. Knowing about the Essene prohibition of divorce, a Pharisee could easily have posed the question to see where Jesus stood in the matter: Do you side with the Essenes or with the

juive de la nouvelle alliance au pays de Damas," *Revue biblique* 9 (1912) 213-40, esp. 332-35. Cf. L. Nemoj, *Karaite Anthology: Excerpts from the Early Literature* (New Haven: Yale Univ., 1952) p. 334; A. Büchler, "Schechter's 'Jewish Sectararies,'" *Jewish Quarterly Review* 3 (1912-13) 429-85, esp. 433-34; N. Wieder, *The Judean Scrolls and Karaism* (London: East and West Library, 1962) pp. 131-35.

⁹¹ *Kommentar zum Neuen Testament* 1, 319-20.

⁹² "The Biblical Theology of Divorce," p. 233.

⁹³ *The Sayings of Jesus*, pp. 111-12. See further Charles, *The Teaching*, p. 29 ("an 'unhistorical' question").

Pharisees? The Qumran evidence supplies at least an intelligible matrix for the question as posed in Mark, and the priority of the Marcan passage over the Matthean is not an impossible position. The form of the question as it is found in Mt 19:3 (“Is it lawful to divorce one’s wife *for any cause?*”) represents merely that Evangelist’s reformulation of the question in terms of an inner-Pharisaic dispute, between the schools of Hillel and Shammai, perhaps even reflecting a church-synagogue controversy otherwise manifest in the first Gospel.

Now if there is any validity to the interpretation of these divorce texts in the light of the Qumran material, we see that it does not support the position that the pronouncement-story and the dominical saying, as they are found in Mt 19, represent a more primitive form than that in Mk 10. In my opinion, it merely serves to accord to the Two-Source Theory its merited place as the most plausible solution to the Synoptic Problem.⁹⁴

THEOLOGICAL IMPLICATIONS

But there are further implications in all of this—implications for the present-day debate about divorce; for the process of Gospel composition, as we are aware of it today, reveals that the prohibition of divorce which is recorded in the NT writings has gone through various stages of development. On the basis of form criticism and redaction criticism it is possible to isolate two sayings about divorce that may plausibly be regarded as traceable to Jesus himself: “What therefore God has joined together, let not man put asunder” (the pronouncement, Mk 10:9, Mt 19:6) and “Everyone who divorces his wife and marries another commits adultery, and he who marries a divorced woman commits adultery” (the dominical saying, best preserved in Lk 16:18a–b). The Marcan additional material (10:12a–b), the Matthean exceptive phrases (5:32b, 19:9b), and even the Pauline formulation of the prohibition from the standpoint of the woman (1 Cor 7:10c—if *choristhēnai* really = intransitive “separate” [see above]) are seen to be developments best explained in terms of the contexts in which the prohibition was repeated.

The Matthean exceptive phrases are particularly of interest. Though they scarcely make adultery a basis for divorce between Christians, as we have argued above, the exception for an illicit union (or for a marital situation that should not have been entered into to begin with) may be said not to render the prohibition of divorce less absolute.

What is striking in the modern study of the Gospels and of the divorce passages in particular is the number of commentators who trace back to Jesus in some form or other a prohibition of divorce, and usually in an absolute form. If the sort of analysis in which I have engaged above has

⁹⁴ See further Baltensweiler, *Die Ehe*, pp. 83–84.

any validity, it leads one to the conclusion of the absolute prohibition of it as coming from Jesus himself. When one hears today of commentators analyzing Gospel texts with the principles of form criticism or redaction criticism, one more or less expects to learn from them some more radical or even "liberating" interpretation. But in this case it has not worked that way. Judged form-critically, the NT divorce texts yield as the most primitive form of the prohibition one that is absolute or unqualified.

For modern Christians who are inclined to identify as normative for Christian life and faith only that which Jesus said or did, this lesson on divorce would have to be understood absolutely. But a form of fundamentalism would thus be associated with it—not the usual fundamentalism of the biblical *text*, but an even more naive sort which surrounds what he might be imagined to have said or done. And that raises the further problem about "which Jesus" stands behind that norm. But in reality the norm for Christian life and conduct cannot be other than the historical Jesus in tandem with the diverse pictures of him in the NT writings.⁹⁵ Yet that diversity has to be respected with all its complexity, and the NT tradition about the prohibition of divorce is a good example of the complexity, since we have not only the attestation of an absolute prohibition (e.g., in Paul, Luke, Mark) but also the exceptive phrases in Matthew, the Marcan modification of the prohibition with respect to the woman, and the further exception that is introduced by Paul in 1 Cor 7:15, permitting the Christian "brother or sister" to marry after being divorced by an "unbelieving partner." Even though these exceptions do not stem from Jesus of Nazareth himself—and Paul explicitly stresses that in 7:12—they do stand in the inspired writings of the NT, in the inspired portraits of Jesus enshrined there. They may not have the authority of *ipsissima verba Iesu*, but they do have the authority of Scripture.

Now these exceptions and modifications, being found in such an inspired record of early Christianity's reaction to Jesus, raise the crucial question: If Matthew under inspiration could have been moved to add an exceptive phrase to the saying of Jesus about divorce that he found in an absolute form in either his Marcan source or in "Q," or if Paul likewise under inspiration could introduce into his writing an exception on his own authority, then why cannot the Spirit-guided institutional Church of a later generation make a similar exception in view of problems confronting Christian married life of its day or so-called broken marriages (not really envisaged in the NT)—as it has done in some

⁹⁵ And in the Roman Catholic view of things, coupled with genuine dogmatic tradition. For further discussion of "the historical Jesus in tandem with the diverse pictures of him in the NT," see my article "Belief in Jesus Today," *Commonweal* 101 (1974) 137–42.

situations.⁹⁶ The question here is whether one looks solely at the absolute prohibition, traceable to Jesus, or at "the process of understanding and adaptation" which is in the NT itself and "with which the modern Church can identify only by entering into the process and furthering it."⁹⁷

Because one of the Matthean divorce texts (5:31-32) is found in the Sermon on the Mount, that saying has often been subjected to an interpretation to which the Sermon as a whole has also been submitted. Thus, we are told that the prohibition of divorce in the NT is proposed as an ideal toward which Christians are asked to strive, when in reality it is realized that it is not always achieved. "Jesus established a moral *ideal*, a counsel, without constituting it a legal norm."⁹⁸ This, of course, is an ingenious solution. But it is substantiated only by means of a certain exposition of the Sermon on the Mount as a whole that once had some vogue. The history of the exegesis of that Sermon has run through an entire gamut of interpretations, and one of them is the Theory of the Impossible Ideal—a blueprint for utopia.⁹⁹ And the question has always been whether that theory measures up to the radical program of Christian morality proposed by the Matthean Jesus. Alas, it appears to be as ephemeral as many of the others. This means that distinctions of this sort between "ideal" and "legal norm," born of considerations extrinsic to the texts themselves, stand little chance of carrying

⁹⁶ E.g., in the so-called Petrine privilege.

⁹⁷ G. W. MacRae, S.J., "New Testament Perspective on Marriage and Divorce," *Divorce and Remarriage in the Catholic Church* (ed. L. G. Wrenn; New York: Newman, 1973) pp. 1-15, esp. 3. See further G. Schneider, "Jesu Wort über die Ehescheidung in der Überlieferung des Neuen Testaments," *Trierer theologische Zeitschrift* 80 (1971) 65-87, esp. 87; B. Byron, "1 Cor 7:10-15: A Basis for Future Catholic Discipline on Marriage and Divorce?" *THEOLOGICAL STUDIES* 34 (1973) 429-45.

⁹⁸ V. J. Pospishil, *Divorce and Remarriage: Towards a New Catholic Teaching* (New York: Herder and Herder, 1967) p. 37. Whatever else is to be said about the merits or demerits of this book, the treatment of the biblical passages is unspeakably bad. That a book on such a touchy issue could appear in 1967, treating the biblical passages dealing with it, and basing that treatment solely on such writers as W. R. O'Connor, F. E. Gigot, F. Prat, J. MacRory, and R. Yaron, is indicative of the quality of the proposal made.—Others who interpret the prohibition of divorce as merely an ideal: W. J. O'Shea, "Marriage and Divorce: The Biblical Evidence," *Australasian Catholic Record* 47 (1970) 89-109, esp. 106-8; J. A. Grispingo, *The Bible Now* (Notre Dame: Fides, 1971) pp. 95-107, esp. 106; D. Crossan, "Divorce and Remarriage in the New Testament," *The Bond of Marriage: An Ecumenical and Interdisciplinary Study* (ed. W. W. Bassett; Notre Dame: Univ. of Notre Dame, 1968) pp. 1-40.

⁹⁹ See A. M. Hunter, "The Meaning of the Sermon on the Mount," *Expository Times* 63 (1952) 176-79; J. Jeremias, *The Sermon on the Mount* (Philadelphia: Fortress, 1963) 1-12. Cf. A. M. Ambrozic, "Indissolubility of Marriage in the New Testament: Law or Ideal?" *Studia canonica* 6 (1972) 269-88.

conviction. The Matthean Jesus' words appeal beyond Mosaic legislation and any ideal to the divine institution of marriage itself.

A still further theological question may be asked, about why Jesus himself might have assumed such an attitude toward divorce as seems to be enshrined in his prohibition. Here I find myself attracted by a solution proposed by A. Isaksson, whose interpretation about the primitivity of the Matthean pericope I otherwise cannot accept. His explanation of Jesus' attitude is by no means certain, but it is nevertheless plausible and intriguing. He presents Jesus' view of marriage as indissoluble as an extension of an OT attitude towards members of the priestly families who were to serve in the Jerusalem temple. "They shall not marry a harlot or a woman who has been defiled; neither shall they marry a woman divorced from her husband (*gērūsāh mē'šāh*, lit., "driven out from her husband"), for the priest is holy to his God" (Lv 21:7; cf. Ez 44:22). Isaksson sees this as the motivation for the prohibition of divorce: "Jesus taught his disciples that they were chosen for and consecrated to the service of God."¹⁰⁰ His suggestion fits in with other considerations of the Christian community as the temple in a new sense (2 Cor 6:14—7:1; 1 Cor 3:16—17; Eph 2:18—22)—a theme that was not unknown either to the Qumran community or to the early Church.¹⁰¹ And one might want to add the further implication of the general priestly character of Christian disciples (Ap 1:6).¹⁰²

On the other hand, there may be a still further nuance. If it is true that what is legislated for the king is legislated for the commoner, the prohibition of divorce for the king in 11QTemple 57:17—19 and for the "prince" of the community in CD 4:20—21 may suggest a kingly reason for the prohibition as well. Here 1 Pt 2:5, 9 comes to mind: "Like living stones. . . . You are a chosen race, a royal priesthood, a holy nation, God's own people. . . ." ¹⁰³ Such ideas may have been in the minds of the early Christians, ideas derived from their OT background, but they may also have been influenced by the Palestinian Jewish thinking that we have cited in this paper. Whether we can attribute all of it to the thinking of Jesus of Nazareth will forever remain a problem.

¹⁰⁰ *Marriage and Ministry*, p. 147.

¹⁰¹ See B. Gärtner, *The Temple and the Community in Qumran and the New Testament: A Comparative Study in the Temple Symbolism of the Qumran Texts and the New Testament* (Cambridge: University Press, 1963).

¹⁰² See E. S. Fiorenza, *Priester für Gott: Studien zum Herrschafts- und Priestermotiv in der Apokalypse* (Münster: Aschendorff, [1972]).

¹⁰³ See J. H. Elliott, *The Elect and the Holy: An Exegetical Examination of I Peter 2:4—10 and the Phrase basileion hierateuma* (Leiden: Brill, 1966).